

Craig Mercier
September 04, 2025

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT
OF FLORIDA

* * * * *

GEM PRODUCTS, LLC,

*

Plaintiff

* Case No.

vs.

* 2:25-cv-14047-DMM

RUPP MARINE, INC.,

*

Defendant

*

* * * * *

VIDEOTAPED DEPOSITION OF
CRAIG MERCIER
September 4, 2025

DEFENDANT'S
EXHIBIT

I

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<p style="text-align: right;">Page 2</p> <p>01</p> <p>02 VIDEOTAPED DEPOSITION</p> <p>03 OF</p> <p>04 CRAIG MERCIER, taken on behalf of the Plaintiff</p> <p>05 herein, pursuant to the Rules of Civil Procedure,</p> <p>06 taken before me, the undersigned, Erin Badstuebner, a</p> <p>07 Court Reporter and Notary Public in and for the State</p> <p>08 of Maryland, at Tydings & Rosenberg, LLP, One East</p> <p>09 Pratt Street, Suite 901, Baltimore, Maryland, on</p> <p>10 Thursday, September 4, 2025, beginning at 12:02 p.m.</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p>	<p style="text-align: right;">Page 4</p> <p>01 I N D E X</p> <p>02</p> <p>03 DISCUSSION AMONG PARTIES 7 - 9</p> <p>04 WITNESS: CRAIG MERCIER</p> <p>05 EXAMINATION</p> <p>06 By Attorney Broman 9 - 66</p> <p>07 EXAMINATION</p> <p>08 By Attorney Lockton 67 - 87</p> <p>09 RE-EXAMINATION</p> <p>10 By Attorney Broman 88 - 89</p> <p>11 CERTIFICATE 90</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 3</p> <p>01 A P P E A R A N C E S</p> <p>02</p> <p>03 WILLIAM K. BROMAN, ESQUIRE</p> <p>04 Taft Stettinius & Hollister, LLP</p> <p>05 27777 Franklin Road, Suite 2500</p> <p>06 Southfield, MI 48034</p> <p>07 COUNSEL FOR PLAINTIFF</p> <p>08</p> <p>09 EDWARD F. MCHALE, ESQUIREE</p> <p>10 ANDREW D. LOCKTON, ESQUIRE</p> <p>11 McHale & Slavin, P.A.</p> <p>12 2855 PGA Boulevard</p> <p>13 Palm Beach Gardens, FL 33410-29010</p> <p>14 COUNSEL FOR DEFENDANTS</p> <p>15</p> <p>16 ALSO PRESENT:</p> <p>17 BRADLEY LOY, VIDEOGRAPHER</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>01 EXHIBIT PAGE</p> <p>02</p> <p>03 PAGE</p> <p>04 NUMBER DESCRIPTION IDENTIFIED</p> <p>05 Plaintiff's Exhibits:</p> <p>06 Exhibit 301 Email (RUPP-002361) 16</p> <p>07 Exhibit 302 Emails (RUPP-002355-23356) 24</p> <p>08 Exhibit 303 Email (RUPP-002358) 28</p> <p>09 Exhibit 304 Emails (RUPP-002287-2328) 30</p> <p>10 Exhibit 305 Emails (RUPP-002329-2338) 32</p> <p>11 Exhibit 306 Emails (RUPP-002363-2370) 41</p> <p>12 Exhibit 307 Page 10 of Complaint 53</p> <p>13 Exhibit 308 Exhibit A to Complaint 56</p> <p>14</p> <p>15 Defendant's Exhibits:</p> <p>16 Exhibit 8 Emails (RUPP-002353-2354) 79</p> <p>17 Exhibit 9 Emails (RUPP-002349-2350) 79</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25 CONFIDENTIAL EXHIBITS</p>

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<p style="text-align: right;">Page 6</p> <p style="text-align: center;">OBJECTION PAGE</p> <p>ATTORNEY PAGE</p> <p>Lockton 13, 14, 26, 26, 29, 31, 32, 35, 36, 37, 38, 38, 39, 40, 40, 45, 44, 45, 45, 46, 46, 47, 47, 48 47, 48, 48, 48, 49, 49, 49, 50 51, 52, 54, 54, 54, 66</p> <p>Broman 67, 69, 71, 72, 72, 72, 74, 74, 75, 75, 76, 77, 77, 81, 81, 83, 84, 84, 85, 86, 86, 87</p>	<p style="text-align: right;">Page 8</p> <p>located at 16825 North Chase Drive, Suite 900, Houston, Texas 77060. I am not related to any party in this action, nor am I financially interested in its outcome.</p> <p>The Court Reporter is Erin Badstuebner on behalf of U.S. Legal Support. Counsel will state their appearances for the record, after which the Court Reporter will enter a statement for proceedings and swear in the witness.</p> <p>ATTORNEY BROMAN: Will Broman on behalf of Plaintiff GEM Products, LLC from Taft, Stettinius & Hollister, LLP.</p> <p>ATTORNEY LOCKTON: And on behalf of Rupp Marine, Inc., Andrew Lockton and Ed McHale from McHale & Slavin.</p> <p>COURT REPORTER: Okay.</p> <p>And real quick, Counsel, would you like copies of the transcript sent to the emails provided off the record?</p> <p>ATTORNEY BROMAN: Yes.</p> <p>ATTORNEY LOCKTON: Yes.</p> <p>COURT REPORTER:</p>
<p style="text-align: right;">Page 7</p> <p style="text-align: center;">S T I P U L A T I O N</p> <p>-----</p> <p>(It is hereby stipulated and agreed by and between counsel for the respective parties that reading, signing, sealing, certification and filing are waived.)</p> <p>-----</p> <p style="text-align: center;">P R O C E E D I N G S</p> <p>-----</p> <p>ON VIDEO VIDEOGRAPHER: We are on the record at 12:02 on September 4th, 2025. Audio and video recording will continue to take place until all parties agree to go off the record. Please note that microphones are sensitive and may pick up whispering and private conversations. This is the videorecorded proceeding of Craig Mercier taken by Counsel for Plaintiff in the matter of G-E-M Products, LLC v. Rupp Marine, Inc., filed in the United States District Court for the Southern District of Florida. This proceeding is being held at Tydings & Rosenberg, located at One Pratt Street, Baltimore, Maryland. My name is Bradley Loy. I am the videographer on behalf of U.S. Legal Support,</p>	<p style="text-align: right;">Page 9</p> <p>Okay.</p> <p>And then, Mr. Mercier, if you could please raise your right hand.</p> <p style="text-align: center;">---</p> <p style="text-align: center;">CRAIG MERCIER,</p> <p>CALLED AS A WITNESS IN THE FOLLOWING PROCEEDING, AND HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS FOLLOWS:</p> <p style="text-align: center;">---</p> <p style="text-align: center;">EXAMINATION</p> <p style="text-align: center;">---</p> <p>BY ATTORNEY BROMAN: Q.Good morning or good afternoon, Mr. Mercier. Is that --- that's the correct pronunciation? A.Correct. Q.Okay. Thank you for coming today. We've spoken on the phone. I'm Will Broman. I represent GEM Products. Before the deposition started, you clarified that your understanding was that you sold the patent to GEM Products. And I'm just reiterating on the record that I am the attorney for GEM Products. Have you had your deposition taken before? A.Yes. Q.And when did you have your deposition taken</p>

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<p style="text-align: right;">Page 10</p> <p>01 before?</p> <p>02 A.Last year.</p> <p>03 Q.And in what kind of case was that deposition</p> <p>04 taken?</p> <p>05 A.Civil.</p> <p>06 Q.What was the type of claim that was involved?</p> <p>07 A.Eviction.</p> <p>08 Q.Were you doing the eviction or were you being</p> <p>09 evicted?</p> <p>10 A.I was doing the eviction.</p> <p>11 Q.Did you have an attorney for that deposition?</p> <p>12 A.Yes.</p> <p>13 Q.So you may recall from that deposition that there</p> <p>14 was a Court Reporter present?</p> <p>15 A.Yes.</p> <p>16 Q.There's a Court Reporter present today. She's</p> <p>17 taking down everything that we say, so it's important</p> <p>18 that we don't speak over each other. So I will try to</p> <p>19 let you finish your answers to the best that I can,</p> <p>20 and I would ask that you let me finish my questions</p> <p>21 before you begin answering.</p> <p>22 Is that fair?</p> <p>23 A.Fair.</p> <p>24 Q.Okay.</p> <p>25 There may come a time when I don't ask a question</p>	<p style="text-align: right;">Page 12</p> <p>01 Do you have any understanding of what this case is</p> <p>02 about and why you are here today?</p> <p>03 A.Yes.</p> <p>04 Q.What is your understanding of why you're here</p> <p>05 today?</p> <p>06 A.That I sold a patent to GEM and GEM's trying to</p> <p>07 make a product, and Rupp --- that Rupp started making</p> <p>08 something similar. That's as much as I figured out.</p> <p>09 Q.Okay.</p> <p>10 How did you figure that out?</p> <p>11 A.Because when I got my patent, they were making</p> <p>12 something similar.</p> <p>13 Q.Do you know what product Rupp was making at the</p> <p>14 time that you were issued your patent?</p> <p>15 A.Outrigger pulleys.</p> <p>16 Q.Do you remember anything specific about the</p> <p>17 outrigger pulleys?</p> <p>18 A.Not the one they were making.</p> <p>19 Q.You don't remember anything about what the ---</p> <p>20 what they were making?</p> <p>21 A.It was an outrigger pulley.</p> <p>22 Q.Do you recall any type of a part number associated</p> <p>23 with that pulley?</p> <p>24 A.No.</p> <p>25 Q.Okay.</p>
<p style="text-align: right;">Page 11</p> <p>01 properly. It may not --- you may not understand it</p> <p>02 for some other reason. I may state it in a confusing</p> <p>03 way. If you don't understand a question that I ask,</p> <p>04 please don't answer it. Just ask me to ask the</p> <p>05 question again or rephrase it.</p> <p>06 Is that fair?</p> <p>07 A.Fair.</p> <p>08 Q.And if you do answer the question, then I will</p> <p>09 assume that you understood my question the way I</p> <p>10 intended it.</p> <p>11 Is that fair?</p> <p>12 A.Fair.</p> <p>13 Q.Okay.</p> <p>14 Because we do have a Court Reporter, she cannot</p> <p>15 record things like head nods, hand gestures, huh-huhs,</p> <p>16 uh-huhs or anything else that's nonverbal. So I may</p> <p>17 ask you for a yes or a no from time to time if you</p> <p>18 give an answer that the Court Reporter might not take</p> <p>19 down correctly.</p> <p>20 Is that fair?</p> <p>21 A.That's fair.</p> <p>22 Q.Is there any reason that you cannot testify</p> <p>23 truthfully today?</p> <p>24 A.No.</p> <p>25 Q.Okay.</p>	<p style="text-align: right;">Page 13</p> <p>01 Leading up to today, have you or I --- have you</p> <p>02 and I had any conversation about the substance of this</p> <p>03 litigation?</p> <p>04 A.No.</p> <p>05 Q.I have called you on occasion?</p> <p>06 A.Yes.</p> <p>07 Q.We have spoken by phone regarding the logistics of</p> <p>08 this deposition?</p> <p>09 A.Yes.</p> <p>10 Q.Apart from the logistics of this deposition and</p> <p>11 some personal issues that you mentioned, have we</p> <p>12 spoken about anything else?</p> <p>13 A.No.</p> <p>14 Q.I believe you mentioned that you tried to sell</p> <p>15 your patent or work with Rupp regarding your patent.</p> <p>16 Is that correct?</p> <p>17 ATTORNEY LOCKTON:</p> <p>18 Object to form.</p> <p>19 ATTORNEY BROMAN:</p> <p>20 I'll --- I'll strike that.</p> <p>21 BY ATTORNEY BROMAN:</p> <p>22 Q.Did you ever approach Rupp Marine about Rupp</p> <p>23 Marine purchasing or licensing your patent?</p> <p>24 A.I don't remember if I tried to approach them.</p> <p>25 Q.Do you recall having any type of correspondence</p>

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<p style="text-align: right;">Page 14</p> <p>01 with Rupp Marine about licensing your patent to Rupp 02 Marine? 03 A.Yes. 04 Q.And for clarity, you don't recall if you 05 approached them or they approached you? 06 A.I think we sent him off something similar to a 07 noncompete letter or something like that. 08 Q.Okay. 09 Do you recall why you sent that letter to Rupp 10 Marine? 11 A.Because their product, I believe they redesigned 12 it or I can't remember the specifics, but I had a 13 patent and they started to make a part similar to 14 mine. 15 Q.Do you recall how you became aware of Rupp's 16 product that was making --- that was --- the product 17 that was covered by your patent or would be covered by 18 your patent? 19 A.It was ---. 20 ATTORNEY LOCKTON: 21 Object to form. 22 BY ATTORNEY BROMAN: 23 Q.You can answer. 24 A.It was for sale on their website. 25 Q.Does the part number CA-0145 sound familiar?</p>	<p style="text-align: right;">Page 16</p> <p>01 A.Mr. Rosenberg. 02 Q.Do you know how you spell that name? 03 A.I do not. His first --- his first name is Mort. 04 Q.Mort? 05 A.M-O-R-T. He's the owner. 06 Q.Okay. 07 Is that --- Mr. Rutenberg in the Maryland area? 08 A.Rosenberg. 09 Q.Rosenberg. 10 A.Yes. He's in Columbia. 11 Q.And that's Columbia, Maryland? 12 A.Yes. Rosenberg, Klein & Lee. 13 Q.Is that the name of the law firm? 14 A.Yes. 15 Q.Did you only work with Mr. Rosenberg or did you 16 work with other attorneys at the firm? 17 A.I believe it was only Mr. Rosenberg, but I can't 18 say for sure. I have another attorney, but I don't 19 believe I consult with him. I could be wrong. 20 Q.I'm going to mark, as Plaintiff's Exhibit 301, a 21 document Bates numbered (RUPP-002361). 22 --- 23 (Whereupon, Plaintiff's Exhibit 301, 24 Email (RUPP-002361), was marked for 25 identification.)</p>
<p style="text-align: right;">Page 15</p> <p>01 A.No. 02 Q.If I reference any part numbers, would that sound 03 familiar? 04 A.No. 05 Q.If I showed you a picture of the product, would 06 that refresh your recollection in any way? 07 A.Yes. 08 Q.Do you recall when you first approached Rupp about 09 your patent? 10 A.No. 11 Q.Do you recall any circumstances relating to your 12 patent? I'm trying to understand a timeline of when 13 you first approached Rupp. 14 So my first question is, do you recall a specific 15 date? 16 A.No. 17 Q.Do you recall where in the patent process your 18 patent was, had it been granted yet, had it been 19 published yet, et cetera. 20 A.Well, I would think it would be safe to say the 21 patent would have been granted. 22 Q.Did you have any attorneys helping you with the 23 potential intertransaction between yourself and Rupp? 24 A.I did. 25 Q.What was that attorney's name?</p>	<p style="text-align: right;">Page 17</p> <p>01 --- 02 BY ATTORNEY BROMAN: 03 Q.I'm putting that document in front of you. This 04 is an email Bates stamped (RUPP-002361) sent from 05 Craig Mercier. Email address craig@merciers.com. Is 06 --- that email address craig@merciers.com, has that 07 ever been your email address? 08 A.Yes. 09 Q.Is there any reason why an email sent from 10 craig@merciers.com would not have been sent by you? 11 A.No. 12 Q.Nobody else had access to that email account? 13 A.No. 14 Q.Nobody else would send out emails on your behalf 15 from that account? 16 A.No. 17 Q.Okay. 18 And the date on this email is Thursday, 19 January 30th, 2014, at 5:59 p.m. 20 Do you see that? 21 A.Yeah, I do. 22 Q.And it was sent to Ron Karpanty. 23 Who is Ron Karpanty? 24 A.I don't know. 25 Q.Does Ron Karpanty have any affiliation with Rupp?</p>

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<p style="text-align: right;">Page 18</p> <p>01 A.I don't know.</p> <p>02 Q.You sent the message to Ron. Hi, Ron. Did you</p> <p>03 get me patent info, question mark, question mark.</p> <p>04 Do you recall back in January of 2014 why you were</p> <p>05 approaching somebody named Ron Karpanty about patent</p> <p>06 info?</p> <p>07 A.Not specific to this email.</p> <p>08 Q.Okay.</p> <p>09 Does this email refresh your recollection as to</p> <p>10 whether there was any communication in January of 2014</p> <p>11 about your patents?</p> <p>12 A.I would assume there was, yes.</p> <p>13 Q.How many patents do you --- are you an inventor</p> <p>14 of? You can ballpark it. That's fine.</p> <p>15 A.Ten.</p> <p>16 Q.And you sold at least some of those patents to GEM</p> <p>17 Products?</p> <p>18 A.No, we got one.</p> <p>19 Q.Did you sell other patents to GEM Products?</p> <p>20 A.No.</p> <p>21 Q.Sometimes referred to as continuations.</p> <p>22 A.Yes, I did.</p> <p>23 Q.Okay.</p> <p>24 So there were --- you sold the parent patent and</p> <p>25 the entire patent family to Rupp --- or to GEM</p>	<p style="text-align: right;">Page 20</p> <p>01 A.Right-of-way maintenance.</p> <p>02 Q.What is right-of-way maintenance?</p> <p>03 A.Environmental, to keep the water flowing down the</p> <p>04 highways properly alongside the railroads, vegetation,</p> <p>05 so it didn't hit the plane and train. Keep the water</p> <p>06 from flooding out of the pond on the interstate</p> <p>07 highways.</p> <p>08 Q.Did you sell --- is Mercier's, Inc. still active</p> <p>09 today?</p> <p>10 A.It's been sold.</p> <p>11 Q.Who did you sell it to?</p> <p>12 A.D'Angelo Brothers, Incorporated.</p> <p>13 Q.Do you have any other companies presently?</p> <p>14 A.I do.</p> <p>15 Q.And what is --- what are those companies?</p> <p>16 A.Backwoods, Incorporated.</p> <p>17 Q.And what does Backwoods, Incorporated do?</p> <p>18 A.I'd say multitude of services.</p> <p>19 Q.In what?</p> <p>20 A.Ranging from ice machines to asphalt, fishing,</p> <p>21 charter boat.</p> <p>22 Q.What does Backwoods, Incorporated do relative to</p> <p>23 fishing?</p> <p>24 A.A charter boat.</p> <p>25 Q.Meaning you take people out fishing?</p>
<p style="text-align: right;">Page 19</p> <p>01 Products?</p> <p>02 A.Yes.</p> <p>03 Q.What are the other patents that you are an</p> <p>04 inventor on relate to?</p> <p>05 A.Well, I don't think that's anything to do with</p> <p>06 this.</p> <p>07 Q.I just --- generally speaking, what do they relate</p> <p>08 to?</p> <p>09 A.My industry.</p> <p>10 Q.Which is.</p> <p>11 A.Vegetation maintenance, fishing, railroad.</p> <p>12 Q.So do you have other patents relating to fishing?</p> <p>13 Are you an inventor of other patents relating to</p> <p>14 fishing?</p> <p>15 A.No.</p> <p>16 Q.So the patents that were sold to GEM Products,</p> <p>17 those were the only patents that you are the inventor</p> <p>18 on that relate to fishing?</p> <p>19 A.Yes.</p> <p>20 Q.You are listed here --- your title is CEO and</p> <p>21 President, and then the website is merciers.com.</p> <p>22 What is --- what company were you CEO and</p> <p>23 President of?</p> <p>24 A.Merciers, Incorporated.</p> <p>25 Q.And what did Merciers, Incorporated do?</p>	<p style="text-align: right;">Page 21</p> <p>01 A.Yes.</p> <p>02 Q.And are you the captain on that boat?</p> <p>03 A.Sometimes, yes.</p> <p>04 Q.What kind of boat do you use to take people</p> <p>05 fishing?</p> <p>06 A.57 Carolina Sport Fish.</p> <p>07 Q.Do you use outriggers on that boat?</p> <p>08 A.Yes.</p> <p>09 Q.What kind of outriggers do you use on that boat?</p> <p>10 A.Rupp.</p> <p>11 Q.Do those outriggers on your 57 Carolina Sport Fish</p> <p>12 have pulleys?</p> <p>13 A.Yes.</p> <p>14 Q.What kind of pulleys are on --- who makes the</p> <p>15 pulleys that are attached to those outriggers?</p> <p>16 A.I just bought the boat. I don't know what pulleys</p> <p>17 are on it.</p> <p>18 Q.How long ago did you buy the boat?</p> <p>19 A.Five months.</p> <p>20 Q.Did you have any other boats before the 57</p> <p>21 Carolina Sport Fish?</p> <p>22 A.Yes.</p> <p>23 Q.What kind of boat did you have before the 57</p> <p>24 Carolina Sport Fish?</p> <p>25 A.36 Concord.</p>

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<p style="text-align: right;">Page 22</p> <p>01 Q.Is that also a fishing boat?</p> <p>02 A.Yes.</p> <p>03 Q.Did the 36 Concord have outriggers on it?</p> <p>04 A.Yes.</p> <p>05 Q.What kind of outriggers were on the 36 Concord?</p> <p>06 A.I don't remember.</p> <p>07 Q.Do you remember if those outriggers had pulleys</p> <p>08 attached to them?</p> <p>09 A.They had pulleys attached to them.</p> <p>10 Q.Do you recall the manufacturer of the pulleys?</p> <p>11 A.No, I don't.</p> <p>12 Q.Did you attach the pulleys to the outriggers?</p> <p>13 A.Yes.</p> <p>14 Q.You also mentioned that Backwoods, Incorporated</p> <p>15 does things related to ice machines and asphalt.</p> <p>16 At a high level, what do you mean when you say</p> <p>17 that Backwoods, Incorporated does ice machines and</p> <p>18 asphalt?</p> <p>19 A.We do driveway and parking lot seal coating. And</p> <p>20 we have an ice house in Ocean City, Maryland.</p> <p>21 Q.By having an ice house, does that --- do I infer</p> <p>22 correctly that you stock ice machines? You deliver</p> <p>23 the ice to the ice machine?</p> <p>24 A.No, it makes its own.</p> <p>25 Q.Okay.</p>	<p style="text-align: right;">Page 24</p> <p>01 any other companies?</p> <p>02 A.No.</p> <p>03 Q.We didn't mention this at the beginning of the</p> <p>04 deposition, but I'm going to try to take a break about</p> <p>05 every hour or so.</p> <p>06 A.All right.</p> <p>07 Q.We're going to mark as the next exhibit Exhibit</p> <p>08 302. And this is Bates Number (RUPP-002355).</p> <p>09 ---</p> <p>10 (Whereupon, Plaintiff's Exhibit 302,</p> <p>11 Emails, (RUPP-002355-2356), was marked</p> <p>12 for identification.)</p> <p>13 ---</p> <p>14 BY ATTORNEY BROMAN:</p> <p>15 Q.I'll put in front of you Exhibit 302.</p> <p>16 A.Oh, these are old emails.</p> <p>17 Q.If you could review --- this is on --- this has a</p> <p>18 front and backside to it.</p> <p>19 A.Excuse me.</p> <p>20 Q.There's a --- the document that I put in front of</p> <p>21 you has a front and backside to it.</p> <p>22 A.Okay.</p> <p>23 Q.If you could just review this string of emails.</p> <p>24 ---</p> <p>25 (WHEREUPON, WITNESS REVIEWS DOCUMENT.)</p>
<p style="text-align: right;">Page 23</p> <p>01 The ice machine makes its own ice?</p> <p>02 A.Yes.</p> <p>03 Q.And you sell the machine that makes its own ice?</p> <p>04 A.No, we sell to the public.</p> <p>05 Q.But Backwoods, Incorporated is the entity that</p> <p>06 sells the ice machines?</p> <p>07 A.No, we purchase it.</p> <p>08 Q.Are you --- are you a reseller of the ice</p> <p>09 machines?</p> <p>10 A.No.</p> <p>11 Q.Okay.</p> <p>12 Help me under ---.</p> <p>13 A.We are an ice --- ice vendor.</p> <p>14 Q.You are an ice vendor?</p> <p>15 A.Yes.</p> <p>16 Q.Okay.</p> <p>17 So I --- I'm not familiar with the ice industry.</p> <p>18 I'm just looking for a high level here.</p> <p>19 A.We purchased a machine that makes its own ice and</p> <p>20 we set it up on a piece of property in Ocean City.</p> <p>21 And the campers and the fishermen pull up to it and</p> <p>22 they buy bags of ice from it.</p> <p>23 Q.Okay.</p> <p>24 I think I understand.</p> <p>25 Apart from Backwoods, Incorporated, do you have</p>	<p style="text-align: right;">Page 25</p> <p>01 ---</p> <p>02 THE WITNESS:</p> <p>03 Okay.</p> <p>04 BY ATTORNEY BROMAN:</p> <p>05 Q.So if you look on the backside of Exhibit 302,</p> <p>06 Bates (RUPP-002356), you'll see that at the bottom it</p> <p>07 starts with that email from January 30th, 2014 to Ron</p> <p>08 Karpanty.</p> <p>09 And that same email is the email shown in Exhibit</p> <p>10 301?</p> <p>11 A.Correct.</p> <p>12 Q.Okay.</p> <p>13 And Ron replied to you on January 30th. And in</p> <p>14 Exhibit 302 we can now see that Ron's email is</p> <p>15 ron@ruppmarine.com.</p> <p>16 You see that?</p> <p>17 A.Yes.</p> <p>18 Q.Does that refresh your recollection as to whether</p> <p>19 Ron Karpanty has any affiliation with Rupp Marine?</p> <p>20 A.Yes.</p> <p>21 Q.And is this email chain of Exhibit 302 the</p> <p>22 beginnings of your efforts to sell or license your</p> <p>23 patent relating to pulleys that attach to outriggers</p> <p>24 to Rupp Marine?</p> <p>25 ATTORNEY LOCKTON:</p>

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<p style="text-align: right;">Page 26</p> <p>01 Object to form.</p> <p>02 THE WITNESS:</p> <p>03 Seems to be that way.</p> <p>04 BY ATTORNEY BROMAN:</p> <p>05 Q.Do you recall if you provided the patents to Rupp</p> <p>06 Marine?</p> <p>07 ATTORNEY LOCKTON:</p> <p>08 Object to form.</p> <p>09 THE WITNESS:</p> <p>10 I don't remember.</p> <p>11 BY ATTORNEY BROMAN:</p> <p>12 Q.Okay.</p> <p>13 Ron responded to you on February 3rd, 2014, asking</p> <p>14 what type of arrangement you are hoping for regarding</p> <p>15 your patent, and you respond. And he asks about</p> <p>16 whether he could get a better understanding of your</p> <p>17 intentions to help us determine if we should proceed</p> <p>18 with gathering the pertinent information regarding the</p> <p>19 patent itself.</p> <p>20 In the email that you responded to or that you</p> <p>21 responded in same day, February 3rd, 2014, said, I've</p> <p>22 never given intentions any thought as I was going to</p> <p>23 manufacture.</p> <p>24 Does this email relate to the patent that you</p> <p>25 applied for, for pulleys on outriggers?</p>	<p style="text-align: right;">Page 28</p> <p>01 Q.How did the conversations with Ron Karpanty</p> <p>02 proceed from here?</p> <p>03 A.I don't remember.</p> <p>04 Q.I am marking as Exhibit 303 (RUPP 2357). I</p> <p>05 apologize. It looks like this is a double-sided copy.</p> <p>06 So I'm marking 2358. That's what we're going to talk</p> <p>07 about.</p> <p>08 ---</p> <p>09 (Whereupon, Plaintiff's Exhibit 303,</p> <p>10 Email (RUPP-002358), was marked for</p> <p>11 identification.)</p> <p>12 ---</p> <p>13 ATTORNEY MCHALE:</p> <p>14 What exhibit number is that?</p> <p>15 ATTORNEY BROMAN:</p> <p>16 303.</p> <p>17 BY ATTORNEY BROMAN:</p> <p>18 Q.It looks like the conversation about your patents,</p> <p>19 based on Exhibit 303, continued into 2015.</p> <p>20 Does that sound familiar?</p> <p>21 A.Yes.</p> <p>22 Q.And at this time you are talking to Scott Rupp?</p> <p>23 A.Yes.</p> <p>24 Q.Was there a reason that you were talking with</p> <p>25 Scott Rupp instead of Ron Karpanty at this point?</p>
<p style="text-align: right;">Page 27</p> <p>01 A.Yes.</p> <p>02 Q.And you mentioned that your intent was --- you</p> <p>03 hadn't given your intentions any thought because you</p> <p>04 were going to manufacture it.</p> <p>05 Did you have the manufacturing capabilities at the</p> <p>06 time to manufacture the pulleys?</p> <p>07 A.Yes.</p> <p>08 Q.That was --- would that have been part of</p> <p>09 Mercier's, Inc.?</p> <p>10 A.Yes.</p> <p>11 Q.You go on and you say, at this time, my intent is</p> <p>12 to shut out the other two or three producers of the</p> <p>13 pulley. If you know any of them, I would appreciate</p> <p>14 any leads.</p> <p>15 Did you approach any other manufacturers or</p> <p>16 companies about purchasing or licensing your patent</p> <p>17 for the pulleys?</p> <p>18 A.Yes.</p> <p>19 Q.What companies did you approach, if you remember?</p> <p>20 A.I can remember one was Marlin.</p> <p>21 Q.And did you end up reaching any sort of agreement</p> <p>22 with Marlin?</p> <p>23 A.No.</p> <p>24 Q.Do you recall why not?</p> <p>25 A.No.</p>	<p style="text-align: right;">Page 29</p> <p>01 A.I would imagine the situation escalated.</p> <p>02 Q.You write to Jun Lee @rkpatlaw.com.</p> <p>03 Is that Rosenberg, Klein & Lee?</p> <p>04 A.Yes.</p> <p>05 Q.And was Jun Lee one of the other attorneys that</p> <p>06 was working for you?</p> <p>07 A.Yes.</p> <p>08 Q.At the --- in your April 30th, 2015 email to Jun</p> <p>09 Lee you copied Scott Rupp and Mike Sears.</p> <p>10 Who is Mike Sears, if you recall?</p> <p>11 A.He was one of my managers.</p> <p>12 Q.He worked for you?</p> <p>13 A.Yes.</p> <p>14 Q.And in Exhibit 303 you write, I have agreed to let</p> <p>15 Scott Rupp, who is cc'd on this, to work out an</p> <p>16 agreement to use the pulley patent for the sum of</p> <p>17 5,000 per year.</p> <p>18 Do you recall working out that agreement, where</p> <p>19 Scott Rupp and/or Rupp Marine would pay you \$5,000 a</p> <p>20 year while you're working out an agreement to use the</p> <p>21 pulley patent?</p> <p>22 A.I ---.</p> <p>23 ATTORNEY LOCKTON:</p> <p>24 Object to form.</p> <p>25 THE WITNESS:</p>

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<p style="text-align: right;">Page 30</p> <p>01 I do not recall.</p> <p>02 BY ATTORNEY BROMAN:</p> <p>03 Q.Did you ever receive any payments from Scott Rupp</p> <p>04 or Rupp Marine?</p> <p>05 A.No.</p> <p>06 Q.You didn't receive any payments from Scott Rupp or</p> <p>07 Rupp Marine relating to the patents?</p> <p>08 A.Correct.</p> <p>09 Q.And you didn't receive any payments from Scott</p> <p>10 Rupp or Rupp Marine relating to anything else?</p> <p>11 A.No.</p> <p>12 Q.You have never received any type of financial</p> <p>13 compensation or nonfinancial compensation from Scott</p> <p>14 Rupp or anybody at Rupp Marine.</p> <p>15 Is that correct?</p> <p>16 A.That's correct.</p> <p>17 Q.As Exhibit 304 I'm going to mark (RUPP 2287). And</p> <p>18 this goes through (RUPP-2328).</p> <p>19 ---</p> <p>20 (Whereupon, Plaintiff's Exhibit 304,</p> <p>21 Emails, (RUPP-002287-2328), was marked</p> <p>22 for identification.)</p> <p>23 ---</p> <p>24 BY ATTORNEY BROMAN:</p> <p>25 Q.And you've had a chance to look through Exhibit</p>	<p style="text-align: right;">Page 32</p> <p>01 Q.And there is an application number 12-726,695.</p> <p>02 Do you agree with that?</p> <p>03 A.Yes.</p> <p>04 Q.And so based on Exhibit 304, as of January 30th,</p> <p>05 2014, this as-allowed application, patent application</p> <p>06 was sent to Ron Karpanty by yourself?</p> <p>07 ATTORNEY LOCKTON:</p> <p>08 Object to form.</p> <p>09 THE WITNESS:</p> <p>10 Yes.</p> <p>11 BY ATTORNEY BROMAN:</p> <p>12 Q.I'm going to mark as Exhibit 305 (RUPP-2329)</p> <p>13 through (RUPP-2338).</p> <p>14 ---</p> <p>15 (Whereupon, Plaintiff's Exhibit 305,</p> <p>16 Emails (RUPP-002329-2338), was marked</p> <p>17 for identification.)</p> <p>18 ---</p> <p>19 BY ATTORNEY BROMAN:</p> <p>20 Q.Exhibit 305 contains two emails, one from yourself</p> <p>21 to Scott Rupp and the other from Scott Rupp to Ron</p> <p>22 Karpanty.</p> <p>23 Do you see that?</p> <p>24 A.Yes.</p> <p>25 Q.And those emails are dated May 19th, 2015 and</p>
<p style="text-align: right;">Page 31</p> <p>01 304?</p> <p>02 A.Yes.</p> <p>03 Q.We're going back in time just a little bit</p> <p>04 relative to Exhibit 303, but this email is from you to</p> <p>05 Ron Karpanty on January 30th, 2014.</p> <p>06 You see that?</p> <p>07 A.Yes.</p> <p>08 Q.Do you agree that on January 30th, 2014 you sent a</p> <p>09 copy of your patent application, as allowed, ---</p> <p>10 A.Yes.</p> <p>11 Q.--- to Ron Karpanty?</p> <p>12 ATTORNEY LOCKTON:</p> <p>13 Object to form.</p> <p>14 THE WITNESS:</p> <p>15 Yes.</p> <p>16 BY ATTORNEY BROMAN:</p> <p>17 Q.And if we look at the back of the first page, so</p> <p>18 (RUPP-2288), you'll notice the bottom page numbers I'm</p> <p>19 referencing are in bold in the lower right.</p> <p>20 A.Yes.</p> <p>21 Q.Okay.</p> <p>22 So on (RUPP-2288), this --- up at the top the</p> <p>23 title is Outrigger Line Management System.</p> <p>24 You agree with that?</p> <p>25 A.Yes.</p>	<p style="text-align: right;">Page 33</p> <p>01 May 20th, 2015 respectively.</p> <p>02 Correct?</p> <p>03 A.Yes.</p> <p>04 Q.And attached to the email that Scott Rupp sends to</p> <p>05 Ron Karpanty is a document, Patent License Agreement</p> <p>06 draft, May 13th, 2015 DOCX.</p> <p>07 Do you see that?</p> <p>08 A.Yes.</p> <p>09 Q.Do you agree that the document that follows this</p> <p>10 first page, so now we're on (RUPP-2330) through</p> <p>11 (RUPP-2338), is this the draft License Agreement that</p> <p>12 was sent to Scott Rupp in May of 2015?</p> <p>13 A.Yes.</p> <p>14 Q.And in Section 3 of this agreement, which is on</p> <p>15 (RUPP 2331), there is ---. So it's titled</p> <p>16 compensation. And the draft term says that, in</p> <p>17 consideration for the license granted hereunder,</p> <p>18 Licensee agrees to pay Licensors a fixed annual license</p> <p>19 licensing fee of \$5,000, parentheses, the annual fee,</p> <p>20 closed parentheses.</p> <p>21 Do you see that?</p> <p>22 A.Yes.</p> <p>23 Q.And based on your earlier testimony, Rupp did not</p> <p>24 pay an annual licensing fee of \$5,000.</p> <p>25 Correct?</p>

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<p style="text-align: right;">Page 34</p> <p>01 A.Yes.</p> <p>02 Q.How did you arrive at the annual licensing fee of</p> <p>03 \$5,000?</p> <p>04 A.I don't know, but it sure was cheap.</p> <p>05 Q.Did you set that amount or did they set that ---</p> <p>06 did Rupp set that amount?</p> <p>07 A.I don't recollect.</p> <p>08 Q.You do a lot of --- you have a lot of business</p> <p>09 ventures?</p> <p>10 A.I did at that time. I had 300 employees.</p> <p>11 Q.300 employees from Merciers?</p> <p>12 A.Yes.</p> <p>13 Q.So based on your habits back in 2015, ---?</p> <p>14 A.I would have negotiated this.</p> <p>15 Q.Would you have been the person to offer the \$5,000</p> <p>16 or would you normally let your --- the person you're</p> <p>17 negotiating with provide the opening offer?</p> <p>18 A.I would have been the one.</p> <p>19 Q.So based on your general practice at the time,</p> <p>20 it's likely that you would have made the opening offer</p> <p>21 of \$5,000 to give to Scott Rupp?</p> <p>22 A.Yes.</p> <p>23 Q.And then in Section C you have in the event an</p> <p>24 annual fee becomes past due there's a five-percent</p> <p>25 interest rate added per month.</p>	<p style="text-align: right;">Page 36</p> <p>01 patent.</p> <p>02 Correct?</p> <p>03 A.Correct.</p> <p>04 Q.When we get to licensed products, there are no</p> <p>05 Rupp part numbers listed. You have the --- what looks</p> <p>06 like placeholders for Rupp to fill in.</p> <p>07 ATTORNEY LOCKTON:</p> <p>08 Object to form. Will, I also want to</p> <p>09 object because this document doesn't appear to be the</p> <p>10 original that we sent. It's missing highlighting,</p> <p>11 so ---.</p> <p>12 ATTORNEY BROMAN:</p> <p>13 This is filled in. This is black and</p> <p>14 white. I can ---.</p> <p>15 ATTORNEY LOCKTON:</p> <p>16 I know. But the document that --- the</p> <p>17 genuine document has highlighting in that section.</p> <p>18 ATTORNEY BROMAN:</p> <p>19 Noted.</p> <p>20 ATTORNEY LOCKTON:</p> <p>21 Okay.</p> <p>22 BY ATTORNEY BROMAN:</p> <p>23 Q.This Exhibit 305 has been printed in black and</p> <p>24 white, which is why the highlighting does not appear.</p> <p>25 You have Rupp part number CA- and there's some blanks</p>
<p style="text-align: right;">Page 35</p> <p>01 You see that?</p> <p>02 A.Yes.</p> <p>03 Q.Was there any type of ongoing royalty payment that</p> <p>04 you considered as part of this License Agreement?</p> <p>05 ATTORNEY LOCKTON:</p> <p>06 Object to form.</p> <p>07 THE WITNESS:</p> <p>08 I don't remember.</p> <p>09 BY ATTORNEY BROMAN:</p> <p>10 Q.If you go to the last page, 2338, it's on the ---</p> <p>11 it's a back page.</p> <p>12 Are you there?</p> <p>13 A.Yes.</p> <p>14 Q.That says Schedule A to License Agreement between</p> <p>15 Craig Mercier and Rupp Marine, Inc.</p> <p>16 Correct?</p> <p>17 A.Correct.</p> <p>18 Q.And here the license patents identify United</p> <p>19 States Patent Number 8656632, issued February 25th,</p> <p>20 2014 for outrigger line management system.</p> <p>21 You see that?</p> <p>22 A.Yes.</p> <p>23 Q.And included in this definition of license</p> <p>24 patents, you've also included a divisional</p> <p>25 continuation or reissue that are based on the 632</p>	<p style="text-align: right;">Page 37</p> <p>01 there to be filled in.</p> <p>02 Do you agree with that?</p> <p>03 A.Yes.</p> <p>04 Q.At the time that this License Agreement was sent</p> <p>05 to Rupp Marine, did you know what parts Rupp sold</p> <p>06 that were to be covered under this License Agreement?</p> <p>07 ATTORNEY LOCKTON:</p> <p>08 Object to form.</p> <p>09 THE WITNESS:</p> <p>10 Could you say that again, please?</p> <p>11 BY ATTORNEY BROMAN:</p> <p>12 Q.Were you leaving it up to Rupp Marine to decide</p> <p>13 what products were covered by your Licensing Agreement</p> <p>14 or had there been a discussion with Rupp Marine where</p> <p>15 specific products were identified?</p> <p>16 A.I would only have to assume I left it up to them.</p> <p>17 Q.Why would you assume that?</p> <p>18 A.I can't make up their part numbers.</p> <p>19 Q.Not the --- I'll --- I'll rephrase the question.</p> <p>20 So you were going to let Rupp fill in the part numbers</p> <p>21 that corresponded to the products that were to be</p> <p>22 covered by this License Agreement.</p> <p>23 Correct?</p> <p>24 A.I don't recall.</p> <p>25 Q.At the time this License Agreement was negotiated,</p>

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<p style="text-align: right;">Page 38</p> <p>01 were there Rupp products identified that were to be</p> <p>02 covered by the patent and by the License Agreement?</p> <p>03 ATTORNEY LOCKTON:</p> <p>04 Object to form.</p> <p>05 THE WITNESS:</p> <p>06 I don't recall.</p> <p>07 BY ATTORNEY BROMAN:</p> <p>08 Q.Had you ever talked with Rupp about a specific</p> <p>09 product?</p> <p>10 A.Yes.</p> <p>11 Q.That would be covered by the license?</p> <p>12 A.Correct.</p> <p>13 Q.So there was a specific product identified between</p> <p>14 yourself and Rupp Marine that was to be covered by the</p> <p>15 patent?</p> <p>16 A.Yes.</p> <p>17 ATTORNEY LOCKTON:</p> <p>18 Object to form.</p> <p>19 BY ATTORNEY BROMAN:</p> <p>20 Q.And sitting here today, you cannot recall which</p> <p>21 specific product that was?</p> <p>22 A.Yes, I know what it was.</p> <p>23 Q.Okay.</p> <p>24 What was it?</p> <p>25 A.It was a line management system.</p>	<p style="text-align: right;">Page 40</p> <p>01 Object to form.</p> <p>02 BY ATTORNEY BROMAN:</p> <p>03 Q.Meaning, do you know for certain that they did or</p> <p>04 for certain that they did not have a --- the pulleys</p> <p>05 that you were describing as the line management</p> <p>06 system?</p> <p>07 A.They did not.</p> <p>08 Q.They did not.</p> <p>09 You know that for certain?</p> <p>10 A.Yes.</p> <p>11 Q.Why was it that Rupp part numbers were available</p> <p>12 for Rupp to fill in this draft License Agreement ---</p> <p>13 ATTORNEY LOCKTON:</p> <p>14 Object to form.</p> <p>15 BY ATTORNEY BROMAN:</p> <p>16 Q.--- if they didn't have any parts?</p> <p>17 A.I don't --- I don't recall.</p> <p>18 ATTORNEY BROMAN:</p> <p>19 Let's take a five-minute break. We'll</p> <p>20 go offline --- off the record, and I'll prepare some</p> <p>21 additional exhibits for the next hour.</p> <p>22 VIDEOGRAPHER:</p> <p>23 Stand by. We are off the record at</p> <p>24 12:49.</p> <p>25 OFF VIDEO</p>
<p style="text-align: right;">Page 39</p> <p>01 Q.And can you describe that a little bit more for</p> <p>02 me, what you remember about Rupp's line management</p> <p>03 system?</p> <p>04 A.Well, it was what I invented for my lines</p> <p>05 management system. There was a single pulley, a</p> <p>06 double, a triple that rigidly attached to the</p> <p>07 outrigger with a screw or any other means of rigidly</p> <p>08 affixing to the pole.</p> <p>09 Q.And at the time, Rupp had a part that was a</p> <p>10 single, double, triple pulley that rigidly affixed to</p> <p>11 the outrigger?</p> <p>12 ATTORNEY LOCKTON:</p> <p>13 Object to form.</p> <p>14 THE WITNESS:</p> <p>15 I don't remember, but I would have to</p> <p>16 say no.</p> <p>17 BY ATTORNEY BROMAN:</p> <p>18 Q.They had not created a part at that time?</p> <p>19 A.At that time, no.</p> <p>20 Q.They were intending to create that part.</p> <p>21 Is that your understanding?</p> <p>22 A.I don't know.</p> <p>23 Q.Do you know one way or another if they had a part</p> <p>24 that was a single, double or triple pulley cluster?</p> <p>25 ATTORNEY LOCKTON:</p>	<p style="text-align: right;">Page 41</p> <p>01 ---</p> <p>02 (WHEREUPON, A SHORT BREAK WAS TAKEN.)</p> <p>03 ---</p> <p>04 (Whereupon, Plaintiff's Exhibit 306,</p> <p>05 Emails (RUPP-002363-2370), was marked</p> <p>06 for identification.)</p> <p>07 ---</p> <p>08 ON VIDEO</p> <p>09 VIDEOGRAPHER:</p> <p>10 We are on the record at 12:58.</p> <p>11 BY ATTORNEY BROMAN:</p> <p>12 Q.Mr. Mercier, I'm putting in front of you what's</p> <p>13 been marked as Exhibit 306. This is (RUPP-2363)</p> <p>14 through (RUPP-2370). If you could take a look at this</p> <p>15 document and let me know when you're done.</p> <p>16 ---</p> <p>17 (WHEREUPON, WITNESS REVIEWS DOCUMENT.)</p> <p>18 ---</p> <p>19 THE WITNESS:</p> <p>20 Okay.</p> <p>21 BY ATTORNEY BROMAN:</p> <p>22 Q.So at the time of August 11th, 2015, which is the</p> <p>23 date of the email from Michael Slavin to Jun Lee on</p> <p>24 (RUPP-2363) you were still negotiating a License</p> <p>25 Agreement with Rupp.</p>

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<p style="text-align: right;">Page 42</p> <p>01 Is that correct?</p> <p>02 A.Yes.</p> <p>03 Q.And Mr. Lee was your attorney?</p> <p>04 A.Yes.</p> <p>05 Q.And did you understand that Mr. Slavin was Rupp's</p> <p>06 attorney?</p> <p>07 A.It does ring a bell, yeah. Oh, yeah. Palm Beach.</p> <p>08 Yes.</p> <p>09 Q.And you mentioned that you reached out to a</p> <p>10 company called Marlin as another potential licensee of</p> <p>11 your patent. And in Exhibit 306, on the first page,</p> <p>12 Mr. Slavin writes in the second paragraph, at --- on</p> <p>13 the end of the line, your reply is that the prior art</p> <p>14 referenced, open parentheses, Malin, M-A-L-I-N, closed</p> <p>15 parenthesis, lacks structural features recited in the</p> <p>16 claim. And it goes on from there.</p> <p>17 Perhaps I misheard you, or maybe you misspoke, is</p> <p>18 the company that you reached out to --- did you reach</p> <p>19 out to Malin?</p> <p>20 A.Yes.</p> <p>21 Q.Okay.</p> <p>22 A.Not Marlin.</p> <p>23 Q.Okay.</p> <p>24 And you don't recall why Malin did not agree to</p> <p>25 some sort of a Licensing Agreement with you?</p>	<p style="text-align: right;">Page 44</p> <p>01 Q.Okay.</p> <p>02 In the first paragraph, third line from the bottom</p> <p>03 of the first paragraph, it says Rupp follows the</p> <p>04 teachings of Malin, and the housings used by Rupp are</p> <p>05 displaceable relative to the outrigger structure.</p> <p>06 You see that?</p> <p>07 A.Yes.</p> <p>08 Q.Do you know what parts or what products Mr. Slavin</p> <p>09 is referring to in this letter?</p> <p>10 A.Give me a minute to read this, please.</p> <p>11 ---</p> <p>12 (WHEREUPON, WITNESS REVIEWS DOCUMENT.)</p> <p>13 ---</p> <p>14 THE WITNESS:</p> <p>15 It's referring to the pulley.</p> <p>16 BY ATTORNEY BROMAN:</p> <p>17 Q.And was that a pulley that Rupp manufactured as of</p> <p>18 November 3rd, 2017?</p> <p>19 A.I can't say.</p> <p>20 Q.How long ago --- I get that this interaction</p> <p>21 between Rupp and yourself occurred several years ago,</p> <p>22 but it also went on for several years. We looked at</p> <p>23 the first document, Exhibit 301. That began in ---</p> <p>24 you know, that email was from January of 2014. This</p> <p>25 letter is from November of 2017.</p>
<p style="text-align: right;">Page 43</p> <p>01 A.No, I do not.</p> <p>02 Q.The --- if you go towards the back of this exhibit</p> <p>03 on page 2369, ---</p> <p>04 A.Yes.</p> <p>05 Q.--- it's a letter from Michael Slavin to a</p> <p>06 gentleman named Brian Gilchrist.</p> <p>07 Do you recall the name Brian Gilchrist? Does that</p> <p>08 mean anything to you?</p> <p>09 A.I recall the name.</p> <p>10 Q.Was Allen, Dyer, Doppelt + Gilchrist another</p> <p>11 attorney that you used at some point?</p> <p>12 A.I'm --- I think I was told I had to be represented</p> <p>13 in the State of Florida by Jun Lee, but I could ---</p> <p>14 that just kind of rings a bell, that I needed local</p> <p>15 representation. That's what it was. Yeah.</p> <p>16 Q.So Mr. Gilchrist was your local representation</p> <p>17 down in Florida? Do I understand that correctly?</p> <p>18 A.Yeah, that's correct.</p> <p>19 Q.Have you --- did you ever see this letter from</p> <p>20 Michael Slavin dated November 3rd, 2017?</p> <p>21 A.Well, I would have to --- I would have to say I</p> <p>22 did, if I'm paying an attorney to do my work for me.</p> <p>23 Q.Sitting here today, do you just --- does this look</p> <p>24 familiar to you?</p> <p>25 A.Yeah, it looks familiar.</p>	<p style="text-align: right;">Page 45</p> <p>01 Was this negotiation for a patent license an</p> <p>02 ongoing issue for you over almost four years?</p> <p>03 A.Yes.</p> <p>04 Q.And in those four years, did you ever identify a</p> <p>05 product that Rupp sold that you felt was covered by</p> <p>06 your patent?</p> <p>07 ATTORNEY LOCKTON:</p> <p>08 Object to form.</p> <p>09 THE WITNESS:</p> <p>10 Could you rephrase that?</p> <p>11 BY ATTORNEY BROMAN:</p> <p>12 Q.You are trying to --- you've been --- you were</p> <p>13 trying to license your patent for almost four years.</p> <p>14 A.Right.</p> <p>15 Q.Right?</p> <p>16 During that four-year period, did you ever</p> <p>17 identify a product that Rupp sold that you said, this</p> <p>18 is covered by my patent?</p> <p>19 ATTORNEY LOCKTON:</p> <p>20 Object to form.</p> <p>21 THE WITNESS:</p> <p>22 No.</p> <p>23 BY ATTORNEY BROMAN:</p> <p>24 Q.So to the best of your knowledge, Rupp was never</p> <p>25 selling their pulley clusters before November 3rd,</p>

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<p style="text-align: right;">Page 46</p> <p>01 2017?</p> <p>02 A.That's correct.</p> <p>03 ATTORNEY LOCKTON:</p> <p>04 Object to form.</p> <p>05 BY ATTORNEY BROMAN:</p> <p>06 Q.And if your memory --- I apologize. If your</p> <p>07 memory was not --- let's say it's not accurate, that</p> <p>08 Rupp, indeed, was selling pulley clusters prior to</p> <p>09 November 3rd, 2017, would you have identified those</p> <p>10 pulleys clusters to Rupp? If you saw them in a</p> <p>11 catalog, would you have pointed them out?</p> <p>12 A.Yes.</p> <p>13 Q.And so it's possible, then, that the housings used</p> <p>14 by Rupp that are displaceable relative to the</p> <p>15 outrigger structure, which is referenced in Mr.</p> <p>16 Slavin's letter, actually refer to a specific Rupp</p> <p>17 product that you pointed out to Rupp and said this</p> <p>18 product --- your product that you're selling would</p> <p>19 infringe my patents? That's possible?</p> <p>20 ATTORNEY LOCKTON:</p> <p>21 Object to form.</p> <p>22 THE WITNESS:</p> <p>23 Correct.</p> <p>24 BY ATTORNEY BROMAN:</p> <p>25 Q.I mean, it's probably likely, given how long this</p>	<p style="text-align: right;">Page 48</p> <p>01 rocked side to side to Rupp ---</p> <p>02 A.Yeah.</p> <p>03 Q.--- and said, ---</p> <p>04 ATTORNEY LOCKTON:</p> <p>05 Object to form.</p> <p>06 BY ATTORNEY BROMAN:</p> <p>07 Q.--- this --- this product that you're making would</p> <p>08 infringe my patent, and that's why you need a license?</p> <p>09 ATTORNEY LOCKTON:</p> <p>10 Object to form.</p> <p>11 THE WITNESS:</p> <p>12 I don't remember.</p> <p>13 BY ATTORNEY BROMAN:</p> <p>14 Q.Okay.</p> <p>15 But there was a reason that you kept pushing them</p> <p>16 for a license and kept this negotiation going?</p> <p>17 A.Yes.</p> <p>18 ATTORNEY LOCKTON:</p> <p>19 Object to form.</p> <p>20 BY ATTORNEY BROMAN:</p> <p>21 Q.And in your business experience, if you didn't</p> <p>22 sell a product that was covered by somebody else's</p> <p>23 patent, there'd be no reason to engage in negotiations</p> <p>24 for a patent license.</p> <p>25 ATTORNEY LOCKTON:</p>
<p style="text-align: right;">Page 47</p> <p>01 went on?</p> <p>02 ATTORNEY LOCKTON:</p> <p>03 Object to form.</p> <p>04 THE WITNESS:</p> <p>05 Yeah.</p> <p>06 BY ATTORNEY BROMAN:</p> <p>07 Q.Does that refresh your recollection at all as to</p> <p>08 whether there was any statements made to Rupp about a</p> <p>09 specific product that would infringe your patent and</p> <p>10 why they needed a license to produce that product?</p> <p>11 ATTORNEY LOCKTON:</p> <p>12 Object to form.</p> <p>13 THE WITNESS:</p> <p>14 Yeah. They started to make a pulley</p> <p>15 that was real similar to mine, but didn't quite fit</p> <p>16 the bill, as I think back, because at first they had</p> <p>17 nothing. And then as years went by, they started to</p> <p>18 make something, but wasn't as good as mine, but it did</p> <p>19 something different.</p> <p>20 I think it was on a --- it rocked side</p> <p>21 to side. It was like mine, but it tilted side to</p> <p>22 side. So they started to make something similar to</p> <p>23 mine, but wasn't the same.</p> <p>24 BY ATTORNEY BROMAN:</p> <p>25 Q.And you would have pointed out that product that</p>	<p style="text-align: right;">Page 49</p> <p>01 Object.</p> <p>02 BY ATTORNEY BROMAN:</p> <p>03 Q.Is that correct?</p> <p>04 ATTORNEY LOCKTON:</p> <p>05 Object to form.</p> <p>06 THE WITNESS:</p> <p>07 That's correct.</p> <p>08 BY ATTORNEY BROMAN:</p> <p>09 Q.So although your memory of that time may have</p> <p>10 faded a little bit, it's likely that Rupp knew exactly</p> <p>11 what products you thought infringed your patent?</p> <p>12 ATTORNEY LOCKTON:</p> <p>13 Object to form.</p> <p>14 THE WITNESS:</p> <p>15 Yes.</p> <p>16 BY ATTORNEY BROMAN:</p> <p>17 Q.As of November 3rd, 2017?</p> <p>18 A.Yes.</p> <p>19 Q.You mentioned there was a difference between your</p> <p>20 product and the product that you're recalling from</p> <p>21 Rupp, this side-to-side action?</p> <p>22 A.Uh-huh.</p> <p>23 Q.Is there a benefit to your rigid pulley over a</p> <p>24 pulley that moves from side to side?</p> <p>25 ATTORNEY LOCKTON:</p>

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<p style="text-align: right;">Page 50</p> <p>01 Object to form.</p> <p>02 THE WITNESS:</p> <p>03 Well, there's no need for side to side.</p> <p>04 And I think that's why I got mad, because instead of</p> <p>05 going with a normal good deal, he tried to go around</p> <p>06 me and make a pulley just like mine that rocked side</p> <p>07 to side, that had no purpose, because I was the</p> <p>08 fisherman at the time. I still am. And the ones he</p> <p>09 sells now are what I patented.</p> <p>10 BY ATTORNEY BROMAN:</p> <p>11 Q.The rigid ones?</p> <p>12 A.Yes.</p> <p>13 Q.Have you seen the ones he sells now?</p> <p>14 A.Yeah. I purchased some.</p> <p>15 Q.When did you purchase them?</p> <p>16 A.Years ago, when we were going to manufacture them.</p> <p>17 Q.And when you purchased those pulleys, they did not</p> <p>18 rock side to side?</p> <p>19 A.No.</p> <p>20 Q.Did you ever try to force them to rock side to</p> <p>21 side?</p> <p>22 A.It wouldn't work. They were a single bolt.</p> <p>23 Q.Is there any disadvantage to the pulley rocking</p> <p>24 side to side?</p> <p>25 ATTORNEY LOCKTON:</p>	<p style="text-align: right;">Page 52</p> <p>01 A.Yes.</p> <p>02 Q.And when the pulley was attached to the outrigger,</p> <p>03 it didn't rock side to side?</p> <p>04 A.No. It was at the spreader point.</p> <p>05 Q.Do you know if Rupp still sells the pulley that</p> <p>06 rocks side to side?</p> <p>07 A.I haven't looked in a couple years.</p> <p>08 Q.Was --- the product that Rupp was selling, the</p> <p>09 pulleys that didn't move side to side, were those the</p> <p>10 products that you were talking to Rupp about relative</p> <p>11 to the License Agreement?</p> <p>12 A.Could you say that again?</p> <p>13 Q.There was a product that Rupp was making that you</p> <p>14 thought infringed on your pulley --- or your patent,</p> <p>15 which is why there was a discussion about a License</p> <p>16 Agreement.</p> <p>17 Is that correct?</p> <p>18 ATTORNEY LOCKTON:</p> <p>19 Object to form.</p> <p>20 BY ATTORNEY BROMAN:</p> <p>21 Q.Yes?</p> <p>22 A.Correct. Correct.</p> <p>23 Q.And so the product that you felt that was</p> <p>24 infringing on your patent, did that rock side to side</p> <p>25 or did it get attached directly to the outrigger?</p>
<p style="text-align: right;">Page 51</p> <p>01 Object to form.</p> <p>02 THE WITNESS:</p> <p>03 I can't answer that question, but</p> <p>04 there's no advantage to it.</p> <p>05 BY ATTORNEY BROMAN:</p> <p>06 Q.When you are referring to the pulley that Rupp</p> <p>07 sold that attached to the outrigger with a single</p> <p>08 bolt, how did that attach to the outrigger exactly, if</p> <p>09 you can recall?</p> <p>10 A.The bolt went through the outrigger, which already</p> <p>11 had a hole in the outrigger because Rupp had a fixed</p> <p>12 eye bolt in their outrigger, and people would clip</p> <p>13 little pulleys onto them in all kind of fashions. And</p> <p>14 it used to get on my nerves for years, fishing, when</p> <p>15 my rigger line would swing and --- on a boat.</p> <p>16 So that's how I got the idea. So they were</p> <p>17 selling the rigger that already had a hole through it.</p> <p>18 Then they started selling a pulley with a bolt,</p> <p>19 single, double or triple.</p> <p>20 Q.And that --- how did that pulley --- that pulley</p> <p>21 would attach to the bolt?</p> <p>22 A.Yes.</p> <p>23 Q.And that bolt would be put through the outrigger?</p> <p>24 A.Yes.</p> <p>25 Q.Did that bolt connect to parts of the outrigger?</p>	<p style="text-align: right;">Page 53</p> <p>01 A.Well, I know it rocked side to side for a while,</p> <p>02 and then I believe he just started making my patent</p> <p>03 with a fixed bolt.</p> <p>04 Q.And this was during the time of the license</p> <p>05 negotiations?</p> <p>06 A.I can't say. It was at the end.</p> <p>07 Q.I'm going to mark as Exhibit 307 page 10 of the</p> <p>08 Complaint.</p> <p>09 ---</p> <p>10 (Whereupon, Plaintiff's Exhibit 307,</p> <p>11 Page 10 of Complaint, was marked for</p> <p>12 identification.)</p> <p>13 ---</p> <p>14 BY ATTORNEY BROMAN:</p> <p>15 Q.And the reason I'm doing this is to point out in</p> <p>16 the --- I'll represent to you that the image shown on</p> <p>17 page ten of the Complaint is an image taken from</p> <p>18 Rupp's catalog. We've been talking a lot about these</p> <p>19 pulleys.</p> <p>20 Do --- the pulleys that are shown in Exhibit 307</p> <p>21 in these pictures, are those --- there's three pulleys</p> <p>22 on the right side.</p> <p>23 Are those the pulleys that you were aware of</p> <p>24 during the License Agreement?</p> <p>25 A.Yes.</p>

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<p style="text-align: right;">Page 54</p> <p>01 Q.So during the time that you were negotiating the</p> <p>02 patent license, from January 30th of 2014 through</p> <p>03 November 3rd, 2017, the pulleys that are shown here on</p> <p>04 page ten in Exhibit 307 are the pulleys that Rupp was</p> <p>05 making that you felt would be subject to the License</p> <p>06 Agreement?</p> <p>07 A.Yes.</p> <p>08 Q.And you notified Rupp that these would be subject</p> <p>09 to the License Agreement?</p> <p>10 ATTORNEY LOCKTON:</p> <p>11 Object to form.</p> <p>12 THE WITNESS:</p> <p>13 Yes.</p> <p>14 BY ATTORNEY BROMAN:</p> <p>15 Q.And Rupp knew that these particular pulleys were</p> <p>16 subject to the License Agreement?</p> <p>17 ATTORNEY LOCKTON:</p> <p>18 Object to form.</p> <p>19 THE WITNESS:</p> <p>20 Correct.</p> <p>21 BY ATTORNEY BROMAN:</p> <p>22 Q.And Rupp knew that at least before November 3rd,</p> <p>23 2017?</p> <p>24 ATTORNEY LOCKTON:</p> <p>25 Object to form.</p>	<p style="text-align: right;">Page 56</p> <p>01 Q.Did you make prototypes of those pulleys? Did you</p> <p>02 use the pulleys of the invention in your own fishing?</p> <p>03 You came up with the idea.</p> <p>04 A.Right.</p> <p>05 Q.And so obviously, you know, you disclosed that in</p> <p>06 the patent, how to make ---</p> <p>07 A.Right.</p> <p>08 Q.--- and all of that?</p> <p>09 A.Right.</p> <p>10 Q.Did you ever make a prototype of it to try and use</p> <p>11 it yourself?</p> <p>12 A.I don't believe so.</p> <p>13 Q.I'll next mark as Exhibit 308 ---. This is</p> <p>14 Exhibit A to the Complaint and is a copy of the</p> <p>15 outrigger line management patent, U.S. Patent Number</p> <p>16 8656632, and includes the Ex Parte Re-Examination</p> <p>17 Certificate.</p> <p>18 ---</p> <p>19 (Whereupon, Plaintiff's Exhibit 308,</p> <p>20 Exhibit A to Complaint, was marked for</p> <p>21 identification.)</p> <p>22 ---</p> <p>23 BY ATTORNEY BROMAN:</p> <p>24 Q.Mr. Mercier, this is the patent that you were</p> <p>25 working to license with or license to Rupp Marine.</p>
<p style="text-align: right;">Page 55</p> <p>01 THE WITNESS:</p> <p>02 That's correct. You should have showed</p> <p>03 me this when we first started. It jogged my memory.</p> <p>04 BY ATTORNEY BROMAN:</p> <p>05 Q.I apologize. That was ---.</p> <p>06 A.Hard to go back eight years.</p> <p>07 Q.So tell me about the invention story. Tell me</p> <p>08 about how you came up with the invention that you got</p> <p>09 a patent on. You've already alluded to it a little</p> <p>10 bit.</p> <p>11 A.I've been fish --- I had a charter boat when I was</p> <p>12 28 'til 35 years old. And I did my own rigging, of</p> <p>13 course. And so things I didn't like, I would always</p> <p>14 make different. I didn't understand why people didn't</p> <p>15 make them with the fixed pulley instead of the ones in</p> <p>16 the picture, Exhibit 307. Everybody had these little</p> <p>17 swinging pulleys on their outriggers and your line</p> <p>18 would get tangled up in them all the time. They hung</p> <p>19 way off the outrigger, about that far (indicating).</p> <p>20 So that's when I got the idea to make that pulley.</p> <p>21 Q.And what process did you go through when you were</p> <p>22 first designing the pulley that you patented?</p> <p>23 A.The regular patent process with Jun Lee. We did a</p> <p>24 patent search. There was nothing out there, so we</p> <p>25 filed for patent.</p>	<p style="text-align: right;">Page 57</p> <p>01 Is that correct?</p> <p>02 A.That's correct.</p> <p>03 Q.And at the back page, the last page, there's this</p> <p>04 Re-Exam --- Ex Parte Re-Examination Certificate.</p> <p>05 You see that?</p> <p>06 A.I do.</p> <p>07 Q.Did you have any involvement with --- were you</p> <p>08 aware of the --- strike that.</p> <p>09 Were you aware of the Ex Parte Re-Exam?</p> <p>10 A.I was.</p> <p>11 Q.So you're --- you're a fisherman and you use</p> <p>12 outriggers that have pulleys on them, right, on your</p> <p>13 57 Carolina?</p> <p>14 A.Yes.</p> <p>15 Q.Can you describe for me how the outrigger is</p> <p>16 rigged up with the --- there's halyard lines, I'm</p> <p>17 aware, or rigging lines, depending on ---</p> <p>18 A.Yes.</p> <p>19 Q.--- what term you use.</p> <p>20 Can you walk me through how that outrigger is set</p> <p>21 up on your 57 Carolina?</p> <p>22 A.You have three lines on your --- on your</p> <p>23 outrigger. And the first one, short rigger, medium</p> <p>24 rigger, long rigger. And the first pulley has three</p> <p>25 sets of pulleys. The second pulley has two sets of</p>

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<p style="text-align: right;">Page 58</p> <p>01 pulleys. That's your second rigger. And the top line</p> <p>02 long rigger's got one pulley.</p> <p>03 Q.How do --- so what's the purpose of an outrigger</p> <p>04 when you're fishing?</p> <p>05 A.To get your line to a bigger spread.</p> <p>06 Q.When you're referring to lines, you're talking</p> <p>07 about lines coming from the fishing pole?</p> <p>08 A.Yes.</p> <p>09 Q.Teaser lines?</p> <p>10 A.Yes.</p> <p>11 Q.How do the lines from the fishing pole or the</p> <p>12 teaser lines spread out on the outrigger? How are</p> <p>13 they connected to the outrigger, if they're connected?</p> <p>14 A.They go through the pulley.</p> <p>15 Q.The fishing line goes through the pulley?</p> <p>16 A.No, the --- your main line goes through the</p> <p>17 pulley. There's a small clip that you put your</p> <p>18 fishing line on. When a fish hits it, it snaps out of</p> <p>19 the clip.</p> <p>20 Q.Could you use a --- an outrigger and your rigger</p> <p>21 line without that clip or some other type of device on</p> <p>22 the halyard --- on the rigging line?</p> <p>23 A.You would have to have some device.</p> <p>24 Q.You have to have something to release the line and</p> <p>25 hold the line while you're ---?</p>	<p style="text-align: right;">Page 60</p> <p>01 now, a teaser line would go through the outrigger</p> <p>02 pulley?</p> <p>03 A.Yes.</p> <p>04 Q.Okay.</p> <p>05 We looked at emails in some of these exhibits</p> <p>06 earlier relating to the License Agreement.</p> <p>07 A.Correct.</p> <p>08 Q.Did you communicate with Rupp in any other way</p> <p>09 outside of emails? Did you text them, phone calls,</p> <p>10 carrier pigeon?</p> <p>11 A.Probably not if it was a legal issue.</p> <p>12 Q.Would have gone through email?</p> <p>13 A.Yeah.</p> <p>14 Q.If there was an email that said, based on our</p> <p>15 prior discussion --- and I think there is one in here,</p> <p>16 so I won't --- this isn't a guessing game.</p> <p>17 A.I think that was 2014. 303?</p> <p>18 Q.303, yeah. So in Exhibit 303, May 4, 2015, Scott</p> <p>19 Rupp writes to you, says Craig, in our last</p> <p>20 conversation, you mentioned a document would be</p> <p>21 prepared by your attorney.</p> <p>22 Do you recall --- and I'm not seeing in your email</p> <p>23 to Jun Lee on April 30th --- I guess I do. We'll work</p> <p>24 on an agreement to use the pulleys.</p> <p>25 Were there any conversations with Scott Rupp by</p>
<p style="text-align: right;">Page 59</p> <p>01 A.A rubber band, a metal clip. They sell a lot of</p> <p>02 different things for that.</p> <p>03 Q.Could you use a pulley?</p> <p>04 A.No.</p> <p>05 Q.You couldn't use it.</p> <p>06 Could you attach a --- so for a teaser lane ---</p> <p>07 you know what I'm talking about when I say teaser</p> <p>08 line?</p> <p>09 A.Yeah.</p> <p>10 Q.Does --- a teaser line, is that used to catch</p> <p>11 fish?</p> <p>12 A.No.</p> <p>13 Q.How is a teaser line mounted to the boat,</p> <p>14 typically?</p> <p>15 A.It goes from the fishing reel through the</p> <p>16 outrigger through some kind of hardware that will hold</p> <p>17 the weight. It could be 50, 60 pounds of weight. And</p> <p>18 then it hangs off the side of the boat.</p> <p>19 Q.And the part that --- when you say it goes through</p> <p>20 the outrigger, is that --- the teaser line is attached</p> <p>21 to a rigging line?</p> <p>22 A.The teaser line goes off your fishing reel on the</p> <p>23 bridge, out through the pulley and hangs in the water.</p> <p>24 Q.Okay.</p> <p>25 So in --- in your, what you're describing right</p>	<p style="text-align: right;">Page 61</p> <p>01 telephone?</p> <p>02 A.I don't know if I ever talked with Scott</p> <p>03 personally. Maybe one time.</p> <p>04 Q.Did you ever talk to Ron Karpanty?</p> <p>05 A.I can't say. It looks --- apparently I have on</p> <p>06 May 4th. I think when it first started out, I was</p> <p>07 just trying to sell my idea.</p> <p>08 Q.And there was --- throughout all of these</p> <p>09 negotiations, there was never a payment made by Rupp</p> <p>10 to you?</p> <p>11 A.No.</p> <p>12 Q.Or to any of your companies?</p> <p>13 A.No.</p> <p>14 Q.And then there came a time when you did sell the</p> <p>15 rights to your patent to a company called GEM</p> <p>16 Products?</p> <p>17 A.Yes.</p> <p>18 Q.Can you describe how that happened?</p> <p>19 A.I received a phone call from GEM and we negotiated</p> <p>20 a price. I think I applied for one more contingent on</p> <p>21 my patent, and then we squared up.</p> <p>22 Q.And was there only that one payment from GEM to</p> <p>23 you?</p> <p>24 A.I do believe so.</p> <p>25 Q.Is it possible there might have been others?</p>

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<p style="text-align: right;">Page 62</p> <p>01 A.It could have been two, because --- yeah, there 02 was two payments. One was for the --- what I had 03 filed and one if I filed another --- I had to get a 04 contingent patent or something like that. And it was 05 a second payment, yeah. 06 Q.In Exhibit 306, I believe it is --- it could be 07 307. It's 2363 to 2370. 306. 08 A.3 what? 09 Q.306. I think you're looking ---. 10 A.You want 307? 11 Q.306. 2363 to 2370. 12 Do you recall how or why Michael Slavin got 13 involved in your negotiations with Rupp? 14 A.I do not recall, unless I read through these 15 emails and refresh my memory. 16 Q.Appears that most of these emails are --- 17 A.Yeah. 18 Q.--- between your attorney, Jun Lee, and Mr. 19 Slavin. 20 A.Yeah, he was Rupp's attorney. 21 Q.Normally --- so when you did your --- your 22 deposition last year as part of the eviction case, did 23 they go over your background and more personal 24 information at the beginning of the deposition? 25 A.I don't recall.</p>	<p style="text-align: right;">Page 64</p> <p>01 Q.Was that --- did you fish as --- for employment, 02 for money? 03 A.Not full time. I made it here and there on boats. 04 Q.Were you more of a --- when we're talking about 05 fishing, I understand that there might be a difference 06 between sport fishing and commercial fishing. 07 A.Uh-huh. 08 Q.Does that sound right? There's a difference 09 between those two? 10 A.Yeah, there's a difference. 11 Q.So prior to Mercier, Inc., when you're talking 12 about you --- or you did some fishing here and there, 13 was that sport fishing or commercial fishing? 14 A.Well, it was a charter boat, so I guess you would 15 say it was a business, which would make it commercial. 16 I had to have my licenses, my captain's licenses, all 17 my permits. 18 Q.Let's take a short break, and then I might be able 19 to wrap this up before two o'clock. 20 VIDEOGRAPHER: 21 Stand by. 22 THE WITNESS: 23 And then do you go next? 24 ATTORNEY LOCKTON: 25 If there are --- if there's anything</p>
<p style="text-align: right;">Page 63</p> <p>01 Q.A lot of times the attorneys will cover the 02 personal information upfront. And we got into a 03 little bit about your companies, but I'm going to ask 04 you some questions about yourself, so that I can have 05 a better understanding. 06 What is the highest level of education that you've 07 completed? 08 A.High school. 09 Q.And your fishing experience? How long have you 10 been fishing? 11 A.Fifty (50), 45 years. 12 Q.You owned your company, Mercier, Inc.? 13 A.Yes. 14 Q.How long was that in business? 15 A.Thirty (30) years. 16 Q.Prior to Mercier, Inc., did you --- what was your 17 job? What'd you do for a living? 18 A.Entrepreneur. 19 Q.Were you mainly working for yourself? 20 A.Yes. 21 Q.And were you working in the fishing industry at 22 all before Mercier, Inc.? 23 A.For Merciers, Inc.? 24 Q.Before that? 25 A.I was a fisherman.</p>	<p style="text-align: right;">Page 65</p> <p>01 that we need to talk about ---. 02 VIDEOGRAPHER: 03 Stand by. We are off the record at 04 13:34. 05 OFF VIDEO 06 --- 07 (WHEREUPON, A SHORT BREAK WAS TAKEN.) 08 --- 09 ON VIDEO 10 VIDEOGRAPHER: 11 We are on the record at 13:40. 12 BY ATTORNEY BROMAN: 13 Q.Mr. Mercier, I just want to make sure that one 14 thing in the record is clear. 15 Between January 30th, 2014 and November 3rd, 2017, 16 --- 17 A.Uh-huh. 18 Q.--- you had a patent that this --- 632 patent, 19 which I believe --- 20 A.I did. 21 Q.--- is in 30 --- Exhibit 308. 22 You made Rupp aware of this patent during that 23 time? 24 A.I did. 25 Q.And you identified specific products to Rupp that</p>

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<p style="text-align: right;">Page 66</p> <p>01 you felt would be infringing your patent and therefore</p> <p>02 subject to a License Agreement?</p> <p>03 A.I ---.</p> <p>04 ATTORNEY LOCKTON:</p> <p>05 Object to form.</p> <p>06 THE WITNESS:</p> <p>07 I did.</p> <p>08 ATTORNEY BROMAN:</p> <p>09 No further questions.</p> <p>10 ATTORNEY LOCKTON:</p> <p>11 Let's go off the record. I'm going to</p> <p>12 take a break.</p> <p>13 VIDEOGRAPHER:</p> <p>14 Stand by. We are off the record at</p> <p>15 13:41.</p> <p>16 OFF VIDEO</p> <p>17 ---</p> <p>18 (WHEREUPON, A SHORT BREAK WAS TAKEN.)</p> <p>19 ---</p> <p>20 ON VIDEO</p> <p>21 VIDEOGRAPHER:</p> <p>22 Stand by. We are on the record at</p> <p>23 14:13.</p> <p>24 ---</p> <p>25 EXAMINATION</p>	<p style="text-align: right;">Page 68</p> <p>01 Q.You have the emails in front of you here.</p> <p>02 A.Yeah. I figured you'd go there. Identify an</p> <p>03 actual product that they were making that was similar</p> <p>04 to mine.</p> <p>05 Q.That Rupp was making that you were notifying them</p> <p>06 about with regard to this patent.</p> <p>07 Did Mr. Broman highlight any products for you in</p> <p>08 those emails?</p> <p>09 A.No, he did not.</p> <p>10 Q.When you were reviewing them, as he put them in</p> <p>11 front of you, did you notice them identify any Rupp</p> <p>12 product?</p> <p>13 A.No, I did not.</p> <p>14 Q.Okay.</p> <p>15 Now, correct me if I'm wrong. I believe you were</p> <p>16 also served with a subpoena for documents.</p> <p>17 Is that right?</p> <p>18 A.Yes.</p> <p>19 Q.And I think documents were being requested</p> <p>20 originally for August 15, and there was probably ---</p> <p>21 my understanding is that there was some communication</p> <p>22 and they requested them. They gave you extra time, to</p> <p>23 August 18th.</p> <p>24 Is that right?</p> <p>25 ATTORNEY BROMAN:</p>
<p style="text-align: right;">Page 67</p> <p>01 ---</p> <p>02 BY ATTORNEY LOCKTON:</p> <p>03 Q.Good afternoon, Mr. Mercier. My name is Andrew</p> <p>04 Lockton. I represent Rupp Marine, Inc. I wanted to</p> <p>05 follow up with some of the testimony that you just</p> <p>06 gave to Mr. Broman here that we were just covering.</p> <p>07 You testified a little while ago that if you notified</p> <p>08 Rupp regarding this matter, it would have been by</p> <p>09 email.</p> <p>10 Is that right?</p> <p>11 A.Yes.</p> <p>12 Q.Mr. Broman showed you a number of emails that we</p> <p>13 looked at today.</p> <p>14 Correct?</p> <p>15 A.Correct.</p> <p>16 Q.And none of those emails that we looked at today</p> <p>17 identified a Rupp product.</p> <p>18 Correct?</p> <p>19 ATTORNEY BROMAN:</p> <p>20 Objection of form.</p> <p>21 THE WITNESS:</p> <p>22 An actual product that they were making?</p> <p>23 BY ATTORNEY LOCKTON:</p> <p>24 Q.Correct.</p> <p>25 A.I don't know.</p>	<p style="text-align: right;">Page 69</p> <p>01 Objection to form.</p> <p>02 THE WITNESS:</p> <p>03 I don't recall.</p> <p>04 BY ATTORNEY LOCKTON:</p> <p>05 Q.Do you remember that they were asking you to</p> <p>06 produce documents last month in August?</p> <p>07 A.Yes.</p> <p>08 Q.Did you produce any documents?</p> <p>09 A.I have no documents.</p> <p>10 Q.Okay.</p> <p>11 Go back to --- I think you have it in front of</p> <p>12 you, Plaintiff's Exhibit 306.</p> <p>13 A.Four, five, three. Yeah, I got it.</p> <p>14 Q.You got it?</p> <p>15 A.Yep.</p> <p>16 Q.All right.</p> <p>17 Now, when we were looking at this document before</p> <p>18 you made a reference to Rupp started to make a pulley</p> <p>19 that was real similar to yours, but it didn't really</p> <p>20 fit the bill.</p> <p>21 Do you remember that testimony?</p> <p>22 A.I do.</p> <p>23 Q.And as I understood it, and please correct me if</p> <p>24 I'm wrong, as I understood it, your comment that it</p> <p>25 didn't really fit the bill was based on the product</p>

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<p style="text-align: right;">Page 70</p> <p>01 was able to rock side to side and tilt side to side.</p> <p>02 Is that right?</p> <p>03 A.Yes.</p> <p>04 Q.And that's why it was similar, but it wasn't the</p> <p>05 same as yours?</p> <p>06 A.Correct.</p> <p>07 Q.If we look at this first page on Plaintiff's</p> <p>08 Exhibit 306, the bottom number is (RUPP-002363), if I</p> <p>09 direct you to the second paragraph in this email from</p> <p>10 Michael Slavin to Jun Lee, you see the paragraph that</p> <p>11 starts with this inquiry was presented to you?</p> <p>12 A.Right.</p> <p>13 Q.And I guess, actually, let me back up one line.</p> <p>14 The last line of the first paragraph, it says upon</p> <p>15 presentation of a license, our client made a good</p> <p>16 faith inquiry as to what the license covered, which</p> <p>17 they understand is based upon an interpretation of the</p> <p>18 claims.</p> <p>19 Do you see that?</p> <p>20 A.Yes.</p> <p>21 Q.And then it goes into the paragraph starting this</p> <p>22 inquiry was presented to you.</p> <p>23 Do you see the third sentence in that paragraph?</p> <p>24 It references your replies that the prior art</p> <p>25 referenced, open parentheses, Malin, close</p>	<p style="text-align: right;">Page 72</p> <p>01 side.</p> <p>02 A.Right.</p> <p>03 ATTORNEY BROMAN:</p> <p>04 Objection to form.</p> <p>05 BY ATTORNEY LOCKTON:</p> <p>06 Q.That product, ---</p> <p>07 A.Right.</p> <p>08 Q.--- the one that --- is that free to turn and</p> <p>09 tilt?</p> <p>10 ATTORNEY BROMAN:</p> <p>11 Objection of form.</p> <p>12 THE WITNESS:</p> <p>13 Is the Marlin?</p> <p>14 BY ATTORNEY LOCKTON:</p> <p>15 Q.No, the Rupp product.</p> <p>16 A.The one they made similar to mine would rock side</p> <p>17 to side.</p> <p>18 Q.And the one that could rock side to side, was it</p> <p>19 free to turn and tilt with cords?</p> <p>20 ATTORNEY BROMAN:</p> <p>21 Objection to form.</p> <p>22 THE WITNESS:</p> <p>23 Yes.</p> <p>24 BY ATTORNEY LOCKTON:</p> <p>25 Q.Okay.</p>
<p style="text-align: right;">Page 71</p> <p>01 parentheses, lacks structural features recited in the</p> <p>02 claims with varying degrees of specificity, period.</p> <p>03 And the next sentence is, the distinction illustrated</p> <p>04 was that the Malin device simply hooks onto a, quote,</p> <p>05 outrigger eye, end quote, and is free to turn and tilt</p> <p>06 with the cords as they guide relative to the outrigger</p> <p>07 structure.</p> <p>08 Do you see those sentences?</p> <p>09 A.I do.</p> <p>10 Q.Now, when you made the comment about Rupp's</p> <p>11 product that rocks side to side and tilted side to</p> <p>12 side, was that a product that was free to turn and</p> <p>13 tilt with the cords?</p> <p>14 A.Would it do what?</p> <p>15 Q.Was it a product that was free to turn and tilt</p> <p>16 with the cords?</p> <p>17 ATTORNEY BROMAN:</p> <p>18 Objection to form.</p> <p>19 BY ATTORNEY LOCKTON:</p> <p>20 Q.The product that you remember seeing.</p> <p>21 A.No, it was free-swinging. It would go all the way</p> <p>22 in a circle. It didn't tip side to side.</p> <p>23 Q.I'm not asking about the Malin reference. I'm</p> <p>24 asking about the Rupp product that you said was</p> <p>25 similar but didn't fit the bill that rocked side to</p>	<p style="text-align: right;">Page 73</p> <p>01 I want to go to the last two pages in this</p> <p>02 exhibit. It's --- in fact, it's the second to last</p> <p>03 page. At the bottom it's 2369. So now we're looking</p> <p>04 back at that November 3rd, 2017 letter that we talked</p> <p>05 about before.</p> <p>06 Do you remember discussing this?</p> <p>07 A.I do.</p> <p>08 Q.Now, I'm looking in this first paragraph, Rupp ---</p> <p>09 and it's ---. Let me see, one, two, the third</p> <p>10 sentence, the second to last sentence of the first ---</p> <p>11 well, I guess technically the second paragraph, first</p> <p>12 paragraph being the one sentence, the opener.</p> <p>13 But do you see the sentence Rupp follows the</p> <p>14 teachings of Malin and the housings used by Rupp are</p> <p>15 displaceable relative to the outrigger structure?</p> <p>16 A.I do.</p> <p>17 Q.And then at the bottom of the page, the last</p> <p>18 paragraph, the last sentence on that page, Rupp's</p> <p>19 housing is not a fixed angular orientation. Rupp's</p> <p>20 housings pivot on a polyaxial connection.</p> <p>21 Do you see that?</p> <p>22 A.I do.</p> <p>23 Q.Is the --- is what's --- based on your</p> <p>24 understanding, is the --- is this also a reference or</p> <p>25 would it be a reference or a description of the</p>

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<p style="text-align: right;">Page 74</p> <p>01 product that you said was similar but didn't fit the</p> <p>02 bill that rocked side to side?</p> <p>03 ATTORNEY BROMAN:</p> <p>04 Objection to form.</p> <p>05 THE WITNESS:</p> <p>06 Will you say that again?</p> <p>07 BY ATTORNEY LOCKTON:</p> <p>08 Q.Based on your reading of this ---</p> <p>09 A.Right.</p> <p>10 Q.--- and your knowledge of the product that you saw</p> <p>11 that rocked side to side and tilted side to side, does</p> <p>12 this sound like it's describing that product?</p> <p>13 ATTORNEY BROMAN:</p> <p>14 Objection to form.</p> <p>15 BY ATTORNEY LOCKTON:</p> <p>16 Q.Does it read that way?</p> <p>17 A.Yes.</p> <p>18 Q.Okay.</p> <p>19 And so this is both in August of --- the opening</p> <p>20 par --- email that we looked at was August of 2015 and</p> <p>21 this letter is November of 2017. And so, those ---</p> <p>22 those both seem to reference the product that tilts</p> <p>23 and rocks side to side. You made a comment about</p> <p>24 there was a different version of it that you saw.</p> <p>25 Do you remember that?</p>	<p style="text-align: right;">Page 76</p> <p>01 Q.Okay.</p> <p>02 Do you remember when that was?</p> <p>03 A.Well, it would have had to have been when this was</p> <p>04 going on, because we purchased them and we bought them</p> <p>05 from Rupp.</p> <p>06 Q.Okay.</p> <p>07 A.And they did not jump side to side. We had a box</p> <p>08 of them.</p> <p>09 Q.So when you say this is going on, I noticed you're</p> <p>10 tapping with your glasses on the email on the cover of</p> <p>11 that exhibit.</p> <p>12 Are you referencing to the 2014, 2015 period of</p> <p>13 time?</p> <p>14 ATTORNEY BROMAN:</p> <p>15 Objection to form.</p> <p>16 THE WITNESS:</p> <p>17 I'm not sure if it was '14 or '15 or</p> <p>18 '17.</p> <p>19 BY ATTORNEY LOCKTON:</p> <p>20 Q.Okay.</p> <p>21 So at one point along that period of time you</p> <p>22 purchased the product and it just had a through bolt</p> <p>23 that went through?</p> <p>24 A.Yes.</p> <p>25 Q.And at one point in time you saw the product that</p>
<p style="text-align: right;">Page 75</p> <p>01 A.Yeah, it was a side-to-side version.</p> <p>02 Q.And there was a version that you described as</p> <p>03 bolting straight to the outrigger?</p> <p>04 A.The one they were selling now.</p> <p>05 Q.The one that they're selling now?</p> <p>06 A.Yeah.</p> <p>07 Q.Is it possible that you're misremembering the</p> <p>08 timeline of how the product developed?</p> <p>09 ATTORNEY BROMAN:</p> <p>10 Objection to form.</p> <p>11 THE WITNESS:</p> <p>12 I don't believe so.</p> <p>13 BY ATTORNEY LOCKTON:</p> <p>14 Q.So if I were to represent to you that since August</p> <p>15 --- or since the end of 2015, Rupp's pulley products</p> <p>16 have always had this polyaxial connection that is</p> <p>17 being described in the November letter, you don't</p> <p>18 believe that that's correct? Is that your statement?</p> <p>19 ATTORNEY BROMAN:</p> <p>20 Objection to form.</p> <p>21 THE WITNESS:</p> <p>22 Well, I purchased some online years ago</p> <p>23 and they were just one through bolt and it did not</p> <p>24 rock side to side.</p> <p>25 BY ATTORNEY LOCKTON:</p>	<p style="text-align: right;">Page 77</p> <p>01 was able to rock side to side?</p> <p>02 A.I never --- I saw it online. But when I ordered</p> <p>03 them from Rupp, they sent me the one that was</p> <p>04 through-bolted.</p> <p>05 Q.Okay.</p> <p>06 But you're not --- but that you're not sure if it</p> <p>07 was '14, '15, '16 or '17 when that happened?</p> <p>08 A.Well, it was during litigation or during the</p> <p>09 battle, so I would have to say it was '17. It was</p> <p>10 towards the end of this mess.</p> <p>11 Q.Okay.</p> <p>12 Now --- and you're --- am I correct that your</p> <p>13 feeling is that the version of it that had a bolt that</p> <p>14 goes straight into the pulley, that's what was covered</p> <p>15 by your patent?</p> <p>16 ATTORNEY BROMAN:</p> <p>17 Objection to form.</p> <p>18 THE WITNESS:</p> <p>19 Yes.</p> <p>20 BY ATTORNEY LOCKTON:</p> <p>21 Q.And the version that would rock side to side</p> <p>22 wasn't?</p> <p>23 ATTORNEY BROMAN:</p> <p>24 Objection to form.</p> <p>25 THE WITNESS:</p>

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<p style="text-align: right;">Page 78</p> <p>01 It did have a single bolt through the</p> <p>02 back of the outrigger.</p> <p>03 BY ATTORNEY LOCKTON:</p> <p>04 Q.And then it had a part that made it rock side to</p> <p>05 side or tilt side to side?</p> <p>06 A.Yeah, some kind of nut you tighten up on or</p> <p>07 something. I'm going back to '17 or --- '17 ---</p> <p>08 2017, ---</p> <p>09 Q.Uh-huh.</p> <p>10 A.--- but I remember it had a through bolt and you</p> <p>11 could tighten up on a nut on the front that would keep</p> <p>12 it fixed.</p> <p>13 Q.Oh, okay.</p> <p>14 So it was something that it had a part, but you</p> <p>15 had the ability to tighten something?</p> <p>16 A.I do believe so, yeah.</p> <p>17 Q.Okay.</p> <p>18 I'm going to show you a couple other exhibits.</p> <p>19 And if you bear with me, I'm going to get them out.</p> <p>20 And we're going to mark these Defendant's Exhibit 8</p> <p>21 and 9.</p> <p>22 ATTORNEY LOCKTON:</p> <p>23 Can you mark this Defendant's Exhibit 8,</p> <p>24 please?</p> <p>25 ---</p>	<p style="text-align: right;">Page 80</p> <p>01 the first page should read (RUPP-002349) and the</p> <p>02 second page (RUPP-002350).</p> <p>03 Do you have that in front of you?</p> <p>04 A.I do.</p> <p>05 Q.All right.</p> <p>06 At the beginning of the deposition, you made a</p> <p>07 comment about you had communications with some other</p> <p>08 companies. We referred to one of them originally as</p> <p>09 Marlin, then later on we referenced them and corrected</p> <p>10 it as Malin.</p> <p>11 Do you remember that?</p> <p>12 A.I do.</p> <p>13 Q.Now, when we look at these, if you can look at ---</p> <p>14 this is Exhibit 8. Halfway down the page there is ---</p> <p>15 well, actually, it's the bottom of the page, there's</p> <p>16 an email from you to Ron copying --- Ron Karpanty</p> <p>17 copying Scott Rupp. And it makes a statement in the</p> <p>18 second sentence, at this time, my intent is to shut</p> <p>19 out the two or three producers of the pulley. If you</p> <p>20 know any of them, I would appreciate any leads.</p> <p>21 Do you see that?</p> <p>22 A.I do.</p> <p>23 Q.Are those the companies that you ended up in</p> <p>24 discussions with that you referenced or are those</p> <p>25 other companies?</p>
<p style="text-align: right;">Page 79</p> <p>01 Whereupon, Defendant's Exhibit 8, Emails</p> <p>02 (RUPP-002353-2354), was marked for</p> <p>03 identification.)</p> <p>04 ---</p> <p>05 BY ATTORNEY LOCKTON:</p> <p>06 Q.And then I'm going to give you one more, because</p> <p>07 they are both related.</p> <p>08 ATTORNEY LOCKTON:</p> <p>09 Can we mark this one Defendant's Exhibit</p> <p>10 9?</p> <p>11 ---</p> <p>12 (Whereupon, Defendant's Exhibit 9,</p> <p>13 Emails (RUPP-002349-2350), was marked</p> <p>14 for identification.)</p> <p>15 ---</p> <p>16 BY ATTORNEY LOCKTON:</p> <p>17 Q.And Mr. Mercier, you have in front of you what's</p> <p>18 been marked Defendant's Exhibit 8, which is an email</p> <p>19 string. And the Bates numbers on the bottom should</p> <p>20 read (RUPP-002353) and the second page should read</p> <p>21 (RUPP-002354).</p> <p>22 Do you see that?</p> <p>23 A.I do.</p> <p>24 Q.And you should also have in front of you</p> <p>25 Defendant's Exhibit 9, which is an email string. And</p>	<p style="text-align: right;">Page 81</p> <p>01 ATTORNEY BROMAN:</p> <p>02 Objection to form.</p> <p>03 THE WITNESS:</p> <p>04 I don't remember. All's I remember is</p> <p>05 the one that I said was Marlin. That was Mainline or</p> <p>06 something.</p> <p>07 BY ATTORNEY LOCKTON:</p> <p>08 Q.Malin.</p> <p>09 A.Malin.</p> <p>10 Q.I believe --- well, I believe your testimony was</p> <p>11 Malin.</p> <p>12 A.Yeah.</p> <p>13 Q.I don't know whether or not you believe that.</p> <p>14 A.Right.</p> <p>15 ATTORNEY BROMAN:</p> <p>16 Objection to form.</p> <p>17 BY ATTORNEY LOCKTON:</p> <p>18 Q.Okay.</p> <p>19 Do you remember communicating with these two or</p> <p>20 three other producers?</p> <p>21 A.I remember Malin.</p> <p>22 Q.Remember Malin?</p> <p>23 A.Yeah.</p> <p>24 Q.Do you remember any of the other companies?</p> <p>25 A.Harken.</p>

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<p style="text-align: right;">Page 82</p> <p>01 Q.Harken?</p> <p>02 A.Yeah.</p> <p>03 Q.Do you remember any of your communications with</p> <p>04 Harken?</p> <p>05 A.I don't. I would just get on the phone and call</p> <p>06 around.</p> <p>07 Q.Okay.</p> <p>08 If I direct you to Defendant's Exhibit 9, if we</p> <p>09 look at the first page, (RUPP-002349), and we look at</p> <p>10 this email from you, it's two-thirds of the way down.</p> <p>11 It's dated April 18th of 2014. It's to Scott Rupp.</p> <p>12 Do you see that?</p> <p>13 A.I do.</p> <p>14 Q.If we look at --- well, first, can you read that</p> <p>15 email to yourself just to refamiliarize yourself with</p> <p>16 it?</p> <p>17 A.Oh, yeah.</p> <p>18 ---</p> <p>19 (WHEREUPON, WITNESS REVIEWS DOCUMENT.)</p> <p>20 ---</p> <p>21 THE WITNESS:</p> <p>22 Okay.</p> <p>23 BY ATTORNEY LOCKTON:</p> <p>24 Q.Do --- do you remember sending this email?</p> <p>25 A.Yeah, I remember talking to Pipewelders Tower ---</p>	<p style="text-align: right;">Page 84</p> <p>01 Q.This --- the sentence and the preceding sentence,</p> <p>02 in fact, seem to indicate that you believed that they</p> <p>03 were manufacturing something, but they needed to stop</p> <p>04 making ---.</p> <p>05 ATTORNEY BROMAN:</p> <p>06 Objection to form.</p> <p>07 THE WITNESS:</p> <p>08 By the look of the email, I would say</p> <p>09 they had something, yeah.</p> <p>10 BY ATTORNEY LOCKTON:</p> <p>11 Q.Okay.</p> <p>12 Do you remember ever seeing a --- an outrigger</p> <p>13 pulley unit that bolted directly onto an outrigger</p> <p>14 that was kind of stacked going away from the</p> <p>15 outrigger?</p> <p>16 ATTORNEY BROMAN:</p> <p>17 Objection to form.</p> <p>18 THE WITNESS:</p> <p>19 I do not.</p> <p>20 BY ATTORNEY LOCKTON:</p> <p>21 Q.Now, after the statement about Pipewelders, the</p> <p>22 next sentence is my pulley is a fixed pulley. That's</p> <p>23 what makes it different.</p> <p>24 Do you see that?</p> <p>25 A.I do.</p>
<p style="text-align: right;">Page 83</p> <p>01 Q.Okay.</p> <p>02 A.--- out of New Jersey.</p> <p>03 Q.Pipewelders Tower out of New Jersey?</p> <p>04 A.I think that's where they're from, New Jersey.</p> <p>05 Q.I'm aware of a Pipewelders Marine in Fort</p> <p>06 Lauderdale, Florida.</p> <p>07 Could that be the same company?</p> <p>08 A.I could be wrong.</p> <p>09 Q.Okay.</p> <p>10 A.I thought they were out of New Jersey.</p> <p>11 Q.Okay.</p> <p>12 Do you remember their product?</p> <p>13 A.I do not. I don't think they had a product.</p> <p>14 Q.Oh. Now, the sentence that I'm looking here at,</p> <p>15 one, two, three --- the fourth sentence, the only</p> <p>16 other manufacturer I know of is Pipewelder Tower.</p> <p>17 A.I see that.</p> <p>18 Q.Does this --- this seems to indicate that you</p> <p>19 thought they were manufacturing at the time.</p> <p>20 Am I misreading that?</p> <p>21 ATTORNEY BROMAN:</p> <p>22 Objection to form.</p> <p>23 THE WITNESS:</p> <p>24 Say that again, please.</p> <p>25 BY ATTORNEY LOCKTON:</p>	<p style="text-align: right;">Page 85</p> <p>01 Q.And that's the difference that we were just</p> <p>02 discussing a moment ago as to why the bolt-on is what</p> <p>03 you --- when it has a bolt directly through it and</p> <p>04 it's fixed, that's when it was practicing what you ---</p> <p>05 what was in your patent?</p> <p>06 A.Yes.</p> <p>07 ATTORNEY BROMAN:</p> <p>08 Objection to form.</p> <p>09 BY ATTORNEY LOCKTON:</p> <p>10 Q.And when it wasn't fixed, then it wasn't</p> <p>11 practicing what was in your patent?</p> <p>12 ATTORNEY BROMAN:</p> <p>13 Objection to form.</p> <p>14 THE WITNESS:</p> <p>15 True.</p> <p>16 BY ATTORNEY LOCKTON:</p> <p>17 Q.Okay.</p> <p>18 The last thing I just wanted touch on with you,</p> <p>19 Mr. Mercier, if you look back at Plaintiff's Exhibit</p> <p>20 308, it should be this one right here. It's Exhibit A</p> <p>21 to the First Amended Complaint in this action. Now, I</p> <p>22 recall there was some --- there was some testimony</p> <p>23 that you gave Mr. Broman a little while ago. You were</p> <p>24 talking about emails from January 2014.</p> <p>25 Do you remember that?</p>

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<p style="text-align: right;">Page 86</p> <p>01 A.I do.</p> <p>02 Q.And I just want to --- if you look at the first</p> <p>03 page of the patent, do you see at the top there's a</p> <p>04 date of patent?</p> <p>05 A.February 25th, 2014.</p> <p>06 Q.And I just --- because it seemed like there was</p> <p>07 some testimony that there was a patent in January of</p> <p>08 2014. I just want to clarify, this patent issued in</p> <p>09 February 2014.</p> <p>10 Was --- is your ref --- is your comment in ---</p> <p>11 about January of 2014 still a reference to this</p> <p>12 patent, ---</p> <p>13 ATTORNEY BROMAN:</p> <p>14 Objection.</p> <p>15 BY ATTORNEY LOCKTON:</p> <p>16 Q.--- even though it wasn't issued at the time?</p> <p>17 ATTORNEY BROMAN:</p> <p>18 Objection to form.</p> <p>19 THE WITNESS:</p> <p>20 I can't recall.</p> <p>21 BY ATTORNEY LOCKTON:</p> <p>22 Q.Okay.</p> <p>23 And if you look, it's kind of the second to last</p> <p>24 page in this exhibit. Turn to the back. Because</p> <p>25 they're double --- they're double-sided. It's</p>	<p style="text-align: right;">Page 88</p> <p>01 ---</p> <p>02 ON VIDEO</p> <p>03 VIDEOGRAPHER:</p> <p>04 We are on the record at 14:38.</p> <p>05 ATTORNEY LOCKTON:</p> <p>06 Thank you, Mr. Mercier. I have nothing</p> <p>07 further.</p> <p>08 THE WITNESS:</p> <p>09 Thank you.</p> <p>10 ---</p> <p>11 RE-EXAMINATION</p> <p>12 ---</p> <p>13 BY ATTORNEY BROMAN:</p> <p>14 Q.I have --- I have just two follow-up questions.</p> <p>15 Number one, are --- the emails that we looked at</p> <p>16 today, are those all of the emails between yourself or</p> <p>17 Mr. Lee and Rupp or Mr. Slavin?</p> <p>18 A.I don't know.</p> <p>19 Q.There could be more emails?</p> <p>20 A.There could be.</p> <p>21 Q.And you referenced that you thought Pipewelders</p> <p>22 Tower was based in New Jersey.</p> <p>23 Do you recall that?</p> <p>24 A.Yeah.</p> <p>25 Q.Is it possible that you were referring to Palm</p>
<p style="text-align: right;">Page 87</p> <p>01 actually the last piece of paper. We see that the</p> <p>02 Re-Examination Certificate --- do you see when that</p> <p>03 was issued, at the top?</p> <p>04 A.'16.</p> <p>05 Q.August 23rd of 2016?</p> <p>06 A.Yes.</p> <p>07 Q.Okay.</p> <p>08 So these claims that are issued were in</p> <p>09 August 23rd of 2016 based on the issuance of the</p> <p>10 Re-Examination Certificate?</p> <p>11 Correct?</p> <p>12 A.Right.</p> <p>13 ATTORNEY BROMAN:</p> <p>14 Objection to form.</p> <p>15 ATTORNEY LOCKTON:</p> <p>16 If we could take just a moment break.</p> <p>17 VIDEOGRAPHER:</p> <p>18 Stand by.</p> <p>19 THE WITNESS:</p> <p>20 Just one minute.</p> <p>21 VIDEOGRAPHER:</p> <p>22 We are off the record at 14:36.</p> <p>23 OFF VIDEO</p> <p>24 ---</p> <p>25 (WHEREUPON, A SHORT BREAK WAS TAKEN.)</p>	<p style="text-align: right;">Page 89</p> <p>01 Beach Tower in New Jersey?</p> <p>02 A.I don't know. It was 15 years ago.</p> <p>03 ATTORNEY BROMAN:</p> <p>04 No further questions.</p> <p>05 ATTORNEY LOCKTON:</p> <p>06 And nothing further from us.</p> <p>07 VIDEOGRAPHER:</p> <p>08 Stand by.</p> <p>09 THE WITNESS:</p> <p>10 All right.</p> <p>11 VIDEOGRAPHER:</p> <p>12 We are off the record at 14:39.</p> <p>13 * * * * *</p> <p>14 VIDEOTAPED DEPOSITION CONCLUDED AT 2:39 P.M.</p> <p>15 * * * * *</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>


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01 STATE OF MARYLAND)
02 COUNTY OF WASHINGTON)
03

04 CERTIFICATE

05 I, Erin Badstuebner, a Notary Public in and
06 for the State of Maryland, do hereby certify:
07 That the witness whose testimony appears in
08 the foregoing deposition, was duly sworn by me on said
09 date and that the transcribed deposition of said
10 witness is a true record of the testimony given by
11 said witness;
12 That the proceeding is herein recorded fully
13 and accurately;
14 That I am neither attorney nor counsel for,
15 nor related to any of the parties to the action in
16 which these depositions were taken, and further that I
17 am not a relative of any attorney or counsel employed
18 by the parties hereto, or financially interested in
19 this action.

20
21 Erin Badstuebner, 

22 Court Reporter
23
24
25

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